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THE SCHEDULE.—REPEAL OF ENACTMENTS.

*The Indian Registration Act, 1908.**(Part I.—Preliminary. Part II.—Of the Registration-establishment.)*

An Act to consolidate the enactments relating to the Registration of Documents.

WHEREAS it is expedient to consolidate the enactments relating to the registration of documents; It is hereby enacted as follows:—

PART I.**PRELIMINARY.**

1. (1) This Act may be called the Indian Short title, extent and Registration Act, 1908. commencement.

(2) It extends to the whole of British India, except such districts or tracts of country as the Local Government may, with the previous sanction of the Governor General in Council, exclude from its operation.

(3) It shall come into force on the first day of January, 1909.

2. In this Act, unless there is anything repugnant in the subject or Definitions. context,—

(1) "addition" means the place of residence, and the profession, trade, rank and title (if any) of a person described, and, in the case of a Native of India, his caste (if any) and his father's name, or where he is usually described as the son of his mother, then his mother's name:

(2) "book" includes a portion of a book and also any number of sheets connected together with a view of forming a book or portion of a book:

(3) "district" and "sub-district" respectively mean a district and sub-district formed under this Act:

(4) "District Court" includes the High Court in its ordinary original civil jurisdiction:

(5) "endorsement" and "endorsed" include and apply to an entry in writing by a registering officer on a rider or covering slip to any document tendered for registration under this Act:

(6) "immovable property" includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass:

(7) "lease" includes a counterpart, kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease:

(8) "minor" means a person who, according to the personal law to which he is subject, has not attained majority:

(9) "moveable property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immovable property: and

(10) "representative" includes the guardian of a minor and the committee or other legal curator of a lunatic or idiot.

PART II.**OF THE REGISTRATION-ESTABLISHMENT.**

3. (1) The Local Government shall appoint an Inspector General of officer to be the Inspector Registration. General of Registration for the territories subject to such Government:

Provided that the Local Government may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector General shall be exercised and performed by such officer or officers, and within such local limits, as the Local Government appoints in this behalf.

(2) Any Inspector General may hold simultaneously any other office under Government.

4. (1) The Governor of Bombay in Council Branch Inspector may also, with the previous consent of the Governor General in Council, appoint an officer to be Branch Inspector General of Sindh, who shall have all the powers of an Inspector General under this Act other than the power to frame rules hereinafter conferred.

(2) The Branch Inspector General of Sindh may hold simultaneously any other office under Government.

5. (1) For the purposes of this Act, the Local Districts and sub-Government shall form districts. districts and sub-districts, and shall prescribe, and may alter, the limits of such districts and sub-districts.

(2) The districts and sub-districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the local official Gazette.

(3) Every such alteration shall take effect on such day after the date of the notification as is herein mentioned.

6. The Local Government may appoint such Registrars and Sub-persons, whether public officers or not, as it thinks proper, to be Registrars of the several districts, and to be Sub-Registrars of the several sub-districts, formed as aforesaid, respectively.

*The Indian Registration Act, 1908.**(Part II.—Of the Registration-establishment. Part III.—Of Registrable Documents.)*

7. (1) The Local Government shall establish in Offices of Registrar every district an office to and Sub-Registrar. be styled the office of the Registrar and in every sub-district an office or offices to be styled the office of the Sub-Registrar or the offices of the Joint Sub-Registrars.

(2) The Local Government may amalgamate with any office of a Registrar any office of a Sub-Registrar subordinate to such Registrar, and may authorize any Sub-Registrar whose office has been so amalgamated to exercise and perform, in addition to his own powers and duties, all or any of the powers and duties of the Registrar to whom he is subordinate:

Provided that no such authorization shall enable a Sub-Registrar to hear an appeal against an order passed by himself under this Act.

8. (1) The Local Government may also appoint Inspectors of Registration-offices, to be called Inspectors of Registration-offices, and may prescribe the duties of such officers.

(2) Every such Inspector shall be subordinate to the Inspector General.

9. Every military cantonment may (if the Military cantonments Local Government so directs) be, for the purposes of this Act, a sub-district or a district, and the Cantonment Magistrate shall be the Sub-Registrar or the Registrar of such sub-district or district, as the case may be.

10. (1) When any Registrar, other than the Registrar of a district including a Presidency-town, is absent otherwise than on duty in his district, or when his office is temporarily vacant, any person whom the Inspector General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, shall be the Registrar during such absence or until the Local Government fills up the vacancy.

(2) When the Registrar of a district including a Presidency-town is absent otherwise than on duty in his district, or when his office is temporarily vacant, any person whom the Inspector General appoints in this behalf shall be the Registrar during such absence, or until the Local Government fills up the vacancy.

11. When any Registrar is absent from his office on duty in his district, he may appoint any Sub-Registrar or other person in his district to perform, during such absence, all the duties of a Registrar except those mentioned in sections 68 and 72.

12. When any Sub-Registrar is absent, or when his office is temporarily vacant, any person whom the Registrar of the district appoints in this behalf shall be

Sub-Registrar during such absence, or until the Local Government fills up the vacancy.

13. (1) All appointments made under section 10, section 11 for Report of certain appointments and ass- section 12 shall be re- ported to the Local and dismissal of officers. Government by the Inspector General.

(2) Such report shall be either special or general, as the Local Government directs.

(3) The Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead.

14. (1) Subject to the approval of the Governor Remuneration and General in Council, the establishments of regis- Local Government may tering officers. assign such salaries as such Government deems proper to the registering officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries.

(2) The Local Government may allow proper establishments for the several offices under this Act.

15. The several Registrars and Sub-Registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government directs:—"The seal of the Registrar (or of the Sub-Registrar) of ."

16. (1) The Local Government shall provide Register books and for the office of every fire-proof boxes. registering officer the books necessary for the purposes of this Act.

(2) The books so provided shall contain the forms from time to time prescribed by the Inspector General, with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

(3) The Local Government shall supply the office of every Registrar with a fire-proof box, and shall in each district make suitable provision for the safe custody of the records connected with the registration of documents in such district.

PART III.

OF REGISTRABLE DOCUMENTS.

17. (1) The following documents shall be registered, if the property Documents of which re- gistration is compulsory, to which they relate is situate in a district in which, and if they have been executed on or after the date on which, XX of 1866, Act No. XVI of 1864, or the Indian Regis- VII of 1871. tration Act, 1866, or the Indian Registration Act,

The Indian Registration Act, 1908.

(Part III.—Of Registrable Documents.)

II of 1877. 1871, or the Indian Registration Act, 1877, or this Act came or comes into force, namely :—

- (a) instruments of gift of immoveable property ;
- (b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property ;
- (c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest ; and
- (d) leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent :

Provided that the Local Government may, by order published in the local official Gazette, exempt from the operation of this sub-section any leases executed in any district, or part of a district, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

(a) Nothing in clauses (b) and (c) of sub-section (1) applies to—

- (i) any composition-deed : or
- (ii) any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company consist in whole or in part of immoveable property ; or
- (iii) any debenture issued by any such Company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest, to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or
- (iv) any endorsement upon or transfer of any debenture issued by any such Company ; or
- (v) any document not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immoveable property, but merely creating a right to obtain another document which will, when executed, create, declare,

- assign, limit or extinguish any such right, title or interest ; or
 - (vi) any decree or order of a Court and any award ; or
 - (vii) any grant of immoveable property by Government ; or
 - (viii) any instrument of partition made by a Revenue-officer ; or
 - (ix) any order granting a loan or instrument of collateral security granted under the Land Improvement Act, 1871, or the Land Improvement Loans Act, 1883 ; or
 - (x) any order granting a loan under the Agriculturists Loans Act, 1884, or XII of 1884, instrument for securing the repayment of a loan made under that Act ; or
 - (xi) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage ; or
 - (xii) any certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue officer,
- (j) Authorities to adopt a son, executed after the first day of January 1872 and not conferred by a will, shall also be registered.
18. Any of the following documents may be Documents of which registered under this Act, registration is optional, namely :—
- (a) instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immoveable property ;
 - (b) instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest ;
 - (c) leases of immoveable property for any term not exceeding one year, and leases exempted under section 17 ;
 - (d) instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in moveable property ;
 - (e) wills ; and
 - (f) all other documents not required by section 17 to be registered,

XXVI of
1871.
XIX of
1883.

The Indian Registration Act, 1908.

(Part III.—Of Registrable Documents.)

(Part IV.—Of the Time of Presentation. Part V.—Of the Place of Registration.)

19. If any document duly presented for registration be in a language which the registering officer does not understand, and by registering officer.

Documents in language not understood by registering officer. which is not commonly used in the district, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

20. (1) The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration.

Documents containing interlineations, blanks, erasures or alterations. **(2)** If the registering officer registers any such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

21. (1) No non-testamentary document relating to immoveable property and maps or plans shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

(2) Houses in towns shall be described as situate on the north or other side of the street or road (which should be specified) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered.

(3) Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(4) No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration unless it is accompanied by a true copy of the map or plan, or, in case such property is situate in several districts, by such number of true copies of the map or plan as are equal to the number of such districts.

22. (1) Where it is, in the opinion of the Local Government, practicable to describe houses, not being houses in towns, and lands by reference to a Government map or survey, the Local Government may, by rule made under this Act, require that such houses and lands as aforesaid shall, for the purposes of section 21, be so described.

(2) Save as otherwise provided by any rule made under sub-section (1), failure to comply with the provisions of section 21, sub-section (2) or sub-section (3), shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify that property.

PART IV.
OF THE TIME OF PRESENTATION.

23. Subject to the provisions contained in sections 24, 25 and 26, no time for presenting document other than a will documents. shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution :

Provided that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final.

24. Where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

25. (1) If, owing to urgent necessity or unavoidable accident, any provision where delay in presentation is unavoidable. document executed, or copy of a decree or order made, in British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration-fee, such document shall be accepted for registration.

(2) Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

26. When a document purporting to have been executed by all or any documents executed out of British India. of the parties out of British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the registering officer, if satisfied—

(a) that the instrument was so executed, and **(b)** that it has been presented for registration within four months after its arrival in British India, may, on payment of the proper registration-fee, accept such document for registration.

27. A will may at any time be presented for registration or deposited in manner hereinafter provided.

PART V.

OF THE PLACE OF REGISTRATION.

28. Save as in this Part otherwise provided, every document mentioned in section 17, sub-section (1), clauses (a), (b), (c) and (d), and section 18, clauses

*The Indian Registration Act, 1908.**(Part V.—Of the Place of Registration. Part VI.—Of Presenting Documents for Registration.)*

(a), (b) and (c), shall be presented for registration in the office of a Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate.

29. (1) Every document other than a document for registering other documents referred to in section 28, and a copy of a decree or order, may be presented for registration either in the office of the Sub-Registrar in whose sub-district the document was executed, or in the office of any other Sub-Registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

(2) A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose sub-district the original decree or order was made, or, where the decree or order does not affect immoveable property, in the office of any other Sub-Registrar under the Local Government at which all the persons claiming under the decree or order desire the copy to be registered.

30. (1) Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

(2) The Registrar of a district including a Presidency-town and the Registrar of the Lahore District may receive and register any document referred to in section 28 without regard to the situation in any part of British India of the property to which the document relates.

31. In ordinary cases the registration or deposit of documents under this Act shall be made only at private residence, at the office of the officer authorized to accept the same for registration or deposit:

Provided that such officer may on special cause being shown attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will.

PART VI.**OF PRESENTING DOCUMENTS FOR REGISTRATION.**

32. Except in the cases mentioned in section 31 and section 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration-office,—

(a) by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order, or

(b) by the representative or assign of such person, or
(c) by the agent of such person, representative or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

33. (1) For the purposes of section 32, the following powers-of-attorney recognizable for purposes of section 32, shall alone be recognized, namely:—

- (a) if the principal at the time of executing the power-of-attorney resides in any part of British India in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose district or sub-district the principal resides;
- (b) if the principal at the time aforesaid resides in any other part of British India, a power-of-attorney executed before and authenticated by any Magistrate;
- (c) if the principal at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of His Majesty or of the Government of India:

Provided that the following persons shall not be required to attend at any registration-office or Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (a) and (b) of this section, namely:—

- (i) persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend;
- (ii) persons who are in jail under civil or criminal process; and
- (iii) persons exempt by law from personal appearance in Court.

(2) In the case of every such person the Registrar or Sub-Registrar or Magistrate, as the case may be, if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid.

(3) To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Magistrate may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

(4) Any power-of-attorney mentioned in this section may be proved by the production of it without further proof when it purports on the

The Indian Registration Act, 1908.

(Part VI.—Presenting Documents for Registration. Part VII.—
Of Enforcing the Appearance of Executants and Witnesses.)

face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

34. (1) Subject to the provisions contained in this Part and in sections 41, 43, 45, 59, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation under sections 23, 24, 25 and 26:

Provided that, if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, in addition to the fine, if any, payable under section 25, the document may be registered.

(a) Appearances under sub-section (1) may be simultaneous or at different times.

(b) The registering officer shall thereupon—

(a) enquire whether or not such document was executed by the persons by whom it purports to have been executed;

(b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document; and,

(c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

(d) Any application for a direction under the proviso to sub-section (1) may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

(e) Nothing in this section applies to copies of decrees or orders.

35. (1) (a) If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document, or

(b) if in the case of any person appearing by a representative, assign or agent, such representative, assign or agent admits the execution, or

(c) if the person executing the document is dead, and his representative or assign appears before the registering officer and admits the execution,

the registering officer shall register the document as directed in sections 58 to 61, inclusive.

(2) The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contem-

plated by this Act, examine any one present in his office.

(3) (a) If any person by whom the document purports to be executed denies its execution, or

(b) if any such person appears to the registering officer to be a minor, an idiot or a lunatic, or

(c) if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document as to the person so denying, appearing or dead:

Provided that, where such officer is a Registrar, he shall follow the procedure prescribed in Part XII.

PART VII.**OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.**

36. If any person presenting any document for registration or claiming appearance of executant under any document, or witness in desired, which is capable of being so presented, desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or Court as the Local Government directs in this behalf to issue a summons requiring him to appear at the registration office, either in person or by duly authorized agent, as in the summons may be mentioned, and at a time named therein.

37. The officer or Court, upon receipt of Officer or Court to the peon's fee payable in issues and cause service such cases, shall issue the of summons. summons accordingly, and cause it to be served upon the person whose appearance is so required.

38. (1) (a) A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration office, or

(b) a person in jail under civil or criminal process, or

(c) persons exempt by law from personal appearance in Court, and who would but for the provision next hereinafter contained be required to appear in person at the registration office,

shall not be required so to appear.

(2) In the case of every such person the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him or issue a commission for his examination.

The Indian Registration Act, 1908.

(*Part VII.—Of Enforcing the Appearance of Executants and Witnesses. Part VIII.—Of Presenting Wills and Authorities to adopt. Part IX.—Of the Deposit of Wills. Part X.—Of the Effects of Registration and Non-registration.*)

39. The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses, and for their remuneration in suits before Civil Courts, shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission issued and any person summoned to appear under the provisions of this Act.

PART VIII.**OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.**

40. (1) The testator, or after his death any person entitled to person claiming as executors wills and authorities to adopt, or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration.

(2) The donor, or after his death the donee, of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

41. (1) A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

(2) A will or authority to adopt presented for registration by any other person entitled to present it shall be registered if the registering officer is satisfied—

(a) that the will or authority was executed by the testator or donor, as the case may be;

(b) that the testator or donor is dead; and

(c) that the person presenting the will or authority is, under section 40, entitled to present the same.

PART IX.**OF THE DEPOSIT OF WILLS.**

42. Any testator may, either personally or by duly authorised agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any) and with a statement of the nature of the document.

43. (1) On receiving such cover, the Registrar if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register-book No. 5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt; and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

(2) The Registrar shall then place and retain the sealed cover in his fire-proof box.

44. If the testator who has deposited such cover wishes to withdraw it, he may apply, either personally or by duly authorized agent, to the Registrar who holds it in deposit, and such Registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

45. (1) If, on the death of a testator who has deposited a sealed cover under section 42, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and, at the applicant's expense, cause the contents thereof to be copied into his Book No. 3.

(2) When such copy has been made, the Registrar shall re-deposit the original will.

46. (1) Nothing hereinbefore contained shall affect the provisions of section 259 of the Indian Succession Act, 1865, or of section 81 of the Probate and Administration Act, 1881, or the power of any Court by order to compel the production of any will.

(2) When any such order is made, the Registrar shall, unless the will has been already copied under section 45, open the cover and cause the will to be copied into his Book No. 3 and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

PART X.**OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.**

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

48. All non-testamentary documents duly registered under this Act, and relating to any property, whether moveable or immoveable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

49. No document registration of documents required by section 17 to be registered shall—

(a) affect any immoveable property comprised therein, or

(b) confer any power to adopt, or

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(Part X.—Of the Effects of Registration and Non-registration. Part XI.—Of the Duties and Powers of Registering Officers.)

- (c) be received as evidence of any transaction affecting such property or conferring such power,
unless it has been registered.
50. (1) Every document of the kinds mentioned in clauses (a), (b), (c) and (d) of section 17, land, to take effect against unregistered documents.
- Certain registered documents relating to land, to take effect against unregistered documents.
- shall, if duly registered, take effect as regards the property comprised therein, against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.
- (a) Nothing in sub-section (1) applies to leases exempted under the proviso to sub-section (9) of section 17 or to any document mentioned in sub-section (2) of the same section, or to any registered document which had not priority under the law in force at the commencement of this Act.
- Explanation.*—In cases where Act No. XVI of 1864 or the Indian Registration Act, 1866, was in force in the place and at the time in and at which such unregistered document was executed "unregistered" means not registered according to such Act, and, where the document is executed after the first day of July, 1871, not registered under the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or this Act.
- VIII of 1871.
III of 1877.
- PART XI.**
- OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.**
- (A) *As to the Register-books and Indexes.*
51. (1) The following books shall be kept Register-books to be in the several offices kept in the several hereinafter named, offices, namely:—
- A—In all registration offices—
- Book 1, "Register of non-testamentary documents relating to immoveable property;"
- Book 2, "Record of reasons for refusal to register;"
- Book 3, "Register of wills and authorities to adopt;" and
- Book 4, "Miscellaneous Register;"
- B—In the offices of Registrars—
- Book 5, "Register of deposits of wills."
- (2) In Book 1 shall be entered or filed all documents or memoranda registered under sections 17, 18 and 89 which relate to immoveable property, and are not wills.
- (3) In Book 4 shall be entered all documents registered under clauses (d) and (f) of section 18 which do not relate to immoveable property.
- (4) Nothing in this section shall be deemed to require more than one set of books where the office of the Registrar has been amalgamated with the office of a Sub-Registrar.
52. (1) (a) The day, hour and place of presentation, and the nature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it;
- (b) a receipt for such document shall be given by the registering officer to the person presenting the same; and,
- (c) subject to the provisions contained in section 62, every document admitted to registration shall without unnecessary delay be copied in the book appropriated therefor according to the order of its admission.
- (2) All such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector General.
53. All entries in each book shall be numbered consecutively, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.
54. In every office in which any of the books Current indexes and hereinbefore mentioned entries therein, are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has copied, or filed a memorandum of, the document to which it relates.
55. (1) Four such indexes shall be made in all registration offices, and by registering officers, shall be named, respectively, Index No. I, Index No. II, Index No. III and Index No. IV.
- (2) Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document entered or memorandum filed in Book No. 1.
- (3) Index No. II shall contain such particulars mentioned in section 21 relating to every such document and memorandum as the Inspector General from time to time directs in that behalf.
- (4) Index No. III shall contain the names and additions of all persons executing every will and authority entered in Book No. 3, and of the executors and persons respectively appointed thereunder, and after the death of the testator or the donor but not before) the names and additions of all persons claiming under the same.
- (5) Index No. IV shall contain the names and additions of all persons executing and of all persons claiming under every document entered in Book No. 4.

*The Indian Registration Act, 1908.**(Part XI.—Of the Duties and Powers of Registering Officers.)*

(6) Each Index shall contain such other particulars, and shall be prepared in such form as the Inspector General from time to time directs.

56. (1) Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals as the Inspector General from time to time directs, a copy of all entries made by such Sub-Registrar, during the last of such intervals, in Indexes Nos. I, II and III.

(2) Every Registrar receiving such copy shall file it in his office.

57. (1) Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2 and the Indexes relating to Book No. 1 shall be at all times open to inspection by any person applying to inspect the same; and, subject to the provisions of section 62, copies of entries in such books shall be given to all persons applying for such copies.

(2) Subject to the same provisions, copies of entries in Book No. 3 and in the Index relating thereto shall be given to the persons executing the documents to which such entries relate, or to their agents, and after the death of the executants (but not before) to any person applying for such copies.

(3) Subject to the same provisions, copies of entries in Book No. 4 and in the Index relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer, or to his agent or representative.

(4) The requisite search under this section for entries in Books Nos. 3 and 4 shall be made only by the registering officer.

(5) All copies given under this section shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

(B) As to the Procedure on admitting to Registration.

58. (1) On every document admitted to registration, other than a copy of a decree or order, admitted to registration, or a copy sent to a registering officer under section 89, there shall be endorsed from time to time the following particulars, namely:—

(a) the signature and addition of every person admitting the execution of the document, and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;

(b) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(c) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

(2) If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

59. The registering officer shall affix the date Endorsements to be and his signature to all dated and signed by endorsements made under registering officer. sections 52 and 58, relating to the same document and made in his presence on the same day.

60. (1) After such of the provisions of sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word "registered," together with the number and page of the book in which the document has been copied.

(2) Such certificate shall be signed, sealed and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section 59 have occurred as therein mentioned.

61. (1) The endorsements and certificate Endorsements and referred to and mentioned certificate to be copied in sections 59 and 60 shall and document referred. thereupon be copied into the margin of the Register-book, and the copy of the map or plan (if any) mentioned in section 21 shall be filed in Book No. 1.

(2) The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in section 52.

62. (1) When a document is presented for registration under section 19, the translation shall be language unknown to transcribed in the register registering officer. of documents of the nature of the original, and, together with the copy referred to in section 19, shall be filed in the registration office.

(2) The endorsements and certificate respectively mentioned in sections 59 and 60 shall be made on the original, and, for the purpose of making the copies and memoranda required by sections 57, 64, 65 and 66, the translation shall be treated as if it were the original.

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(Part XI.—Of the Duties and Powers of Registering Officers.)

63. (1) Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

(2) Every such officer may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and, if he admits the correctness of such note, it shall be signed by the registering officer.

(3) Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

(C) Special Duties of Sub-Registrar.

64. Every Sub-Registrar on registering a non-testamentary document relating to immovable land in several sub-districts shall make a memorandum thereof and of the endorsement and certificate (if any) thereon, and send the same to every other Sub-Registrar subordinate to the same Registrar as himself in whose sub-district any part of such property is situate, and such Sub-Registrar shall file the memorandum in his Book No. 1.

65. (1) Every Sub-Registrar on registering a non-testamentary document relating to immovable property situated in more districts than one shall also forward a copy thereof and of the endorsement and certificate (if any) thereon, together with a copy of the map or plan (if any) mentioned in section 21, to the Registrar of every district in which any part of such property is situate other than the district in which his own sub-district is situate.

(2) The Registrar on receiving the same shall file in his Book No. 1 the copy of the document and the copy of the map or plan (if any), and shall forward a memorandum of the document to each of the Sub-Registrars subordinate to him within whose sub-district any part of such property is situate : and every Sub-Registrar receiving such memorandum shall file it in his Book No. 1.

(D) Special Duties of Registrar.

66. (1) On registering any non-testamentary document relating to immovable property, the Registrar shall forward a memorandum of such document to each Sub-Registrar subordinate to himself in whose sub-district any part of the property is situate.

(2) The Registrar shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in section 21, to every other Registrar in whose district any part of such property is situate.

(3) Such Registrar on receiving any such copy shall file it in his Book No. 1, and shall also send a memorandum of the copy to each of the Sub-Registrars subordinate to him within whose sub-district any part of the property is situate.

(4) Every Sub-Registrar receiving any memorandum under this section shall file it in his Book No. 1.

67. On any document being registered under Procedure after registration under section 30, sub-section 2, a copy of such document and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose district any part of the property to which the instrument relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in section 66, sub-section (1).

(E) Of the controlling Powers of Registrars and Inspectors General.

68. (1) Every Sub-Registrar shall perform the duties of his office to superintend and under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.

(2) Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered.

69. (1) The Inspector General shall exercise a power of Inspector general superintendence over all the registration offices and offices in the territories under the Local Government, and shall have power from time to time to make rules consistent with this Act—

(a) providing for the safe custody of books, papers and documents, and also for the destruction of such books, papers and documents as need no longer be kept;

(b) declaring what languages shall be deemed to be commonly used in each district;

(c) declaring what territorial divisions shall be recognized under section 21;

(d) regulating the amount of fines imposed under sections 25 and 34, respectively;

(e) regulating the exercise of the discretion reposed in the registering officer by section 63;

(f) regulating the form in which registering officers are to make memoranda of documents;

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(Part XI.—Of the Duties and Powers of Registering Officers. Part XII.—Of Refusal to Register.)

- (g) regulating the authentication by Registrars and Sub-Registrars of the books kept in their respective offices under section 51;
- (h) declaring the particulars to be contained in Indexes Nos. I, II, III and IV, respectively;
- (i) declaring the holidays that shall be observed in the registration-offices; and,
- (j) generally, regulating the proceedings of the Registrars and Sub-Registrars.

(2) The rules so made shall be submitted to the Local Government for approval, and, after they have been approved, they shall be published in the official Gazette, and on publication shall have effect as if enacted in this Act.

70. The Inspector General may also, in the exercise of his discretion, remit wholly or in part the difference between any fine levied under section 25 or section 34, and the amount of the proper registration fee.

PART XII.

OF REFUSAL TO REGISTER.

71. (1) Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his book No. 2, and endorse the words "registration refused" on the document; and on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

72. (1) Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate, if presented to such Registrar within thirty days from the date of the order; and the Registrar may reverse or alter such order.

(2) If the order of the Registrar directs the document to be registered and the document is duly presented for registration within thirty days after the making of such order, the Sub-Registrar shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.

73. (1) When a Sub-Registrar has refused to register a document on the ground that any person by whom it purports to be executed, or his representative or assign, denies its execution, any person claiming under such document, or his representative, assign or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply to the Registrar to whom such Sub-Registrar is subordinate in order to establish his right to have the document registered.

(2) Such application shall be in writing and shall be accompanied by a copy of the reasons recorded under section 71, and the statements in the application shall be verified by the applicant in manner required by law for the verification of plaints.

74. In such case, and also where such denial of registration as aforesaid is made before such application, a Registrar in respect of a document presented for registration to him, the Registrar shall, as soon as conveniently may be, enquire—

(a) whether the document has been executed;

(b) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration, as the case may be, so as to entitle the document to registration.

75. (1) If the Registrar finds that the document has been executed and that the said requirements have been complied with, he shall order the document to be registered.

(2) If the document is duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60.

(3) Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

(4) The Registrar may, for the purpose of any enquiry under section 74, summon and enforce the attendance of witnesses, and compel them to give evidence, as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908.

Order of refusal by Registrars.—

76. (1) Every Registrar refusing—

- (a) to register a document except on the ground that the property to which it relates is not situate within his district or that the document ought to be registered in the office of a Sub-Registrar, or

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(Part XII.—Of Refusal to Register. Part XIII.—Of the Fees for Registration, Searches and Copies. Part XIV.—Of Penalties.)

(b) to direct the registration of a document under section 72 or section 75, shall make an order of refusal and record the reasons for such order in his Book No. 2, and, on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

(c) No appeal lies from any order by a Registrar under this section or section 72.

77. (1) Where the Registrar refuses to order the document to be registered, under section 72 or section 76, any person claiming under such document, or his representative, assign or agent, may, within thirty days after the making of the order of refusal, institute in the Civil Court, within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office if it be duly presented for registration within thirty days after the passing of such decree.

(2) The provisions contained in sub-sections (a) and (3) of section 75 shall, *mutatis mutandis*, apply to all documents presented for registration in accordance with any such decree, and, notwithstanding anything contained in this Act, the document shall be receivable in evidence in such suit.

PART XIII.

OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

78. Subject to the approval of the Governor General in Council, the Local Government shall prepare a table of fees payable—

- (a) for the registration of documents;
- (b) for searching the registers;
- (c) for making or granting copies of reasons, entries or documents, before, on or after registration;
- and of extra or additional fees payable—
- (d) for every registration under section 30;
- (e) for the issue of commissions;
- (f) for filing translations;
- (g) for attending at private residences;
- (h) for the safe custody and return of documents; and
- (i) for such other matters as appear to the Local Government necessary to effect the purposes of this Act.

79. A table of the fees so payable shall be published in the official Gazette, and a copy thereof in English and the vernacular language of the district shall be exposed to public view in every registration office.

80. All fees for the registration of documents payable on presentation under this Act shall be payable on the presentation of such documents.

PART XIV.

OF PENALTIES.

81. Every registering officer appointed under this Act and every person employed in his office for the purposes of this Act, who being charged with the endorsing, copying, translating or registering documents in intent to injure, translating or registering of any document presented or deposited under its provisions, endorses, copies, translates or registers such document in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause, injury, as defined in the Indian Penal Code, to any person, shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Penalty for making false statements, delivering false copies or translations, false personation, and abetment.

- (a) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or inquiry under this Act; or
- (b) intentionally delivers to a registering officer, in any proceeding under section 19 or section 21, a false copy or translation of a document, or a false copy of a map or plan; or
- (c) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act; or
- (d) abets anything made punishable by this Act;

shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

83. (1) A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector General, the Branch Inspector General of Sind, the Registrar or the Sub-Registrar, in whose territories, district or sub-district, as the case may be, the offence has been committed.

(2) Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class.

The Indian Registration Act 1908.

(Part XIV.—Of Penalties. Part XV.—Miscellaneous.)

84. (1) Every registering officer appointed Registering officers under this Act shall be to be deemed public servants. deemed to be a public servant within the meaning of the Indian Penal Code.

(2) Every person shall be legally bound to furnish information to such registering officer when required by him to do so.

(3) In section 228 of the Indian Penal Code, the words "judicial proceeding" shall be deemed to include any proceeding under this Act.

PART XV.**MISCELLANEOUS.**

85. Documents. (other than wills) remaining unclaimed in any registration office for a period exceeding two years may be destroyed.

86. No registering officer shall be liable to any suit, claim or demand by reason of anything done or refused in good faith done or refused in his official capacity.

87. Nothing done in good faith pursuant to this Act or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

88. (1) Notwithstanding anything herein contained, it shall not be necessary for any officer of Government, or for the Administrator General of Bengal, Madras or Bombay, or for any Official Trustee or Official Assignee, or for the Sheriff, Receiver or Registrar of a High Court, to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in section 58.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to any Secretary to Government or to such officer of Government, Administrator General, Official Trustee, Official Assignee, Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

89. (1) Every officer granting a loan under the Land Improvement Orders, certificates and instruments to be sent to the registering officer within the local limits of

whose jurisdiction the whole or any part of the land to be improved or of the land to be granted as collateral security, is situate, and such registering officer shall file the copy in his Book No. 1.

(2) Every Court granting a certificate of sale of immoveable property under the Code of Civil Procedure, 1908, shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immoveable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1.

(3) Every officer granting a loan under the Agriculturists' Loans Act, 1884, shall send a copy of any instrument whereby immoveable property is mortgaged for the purpose of securing the repayment of the loan, and, if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1.

(4) Every Revenue-officer granting a certificate of sale to the purchaser of immoveable property sold by public auction shall send a copy of the certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situate, and such officer shall file the copy in his Book No. 1.

Exemptions from Act.

90. (1) Nothing contained in this Act or in the Exemption of certain documents executed by 1877, or in the Indian Registration Act, 1871, or VIII of 1871 or in favour of Government in any Act thereby repealed shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps, namely:—

(a) documents issued, received or attested by any officer engaged in making a settlement or revision of settlement of land-revenue, and which form part of the records of such settlement; or

(b) documents and maps issued, received or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey; or

(c) documents which, under any law for the time being in force, are filed periodically in any revenue-office by patwaris or other officers charged with the preparation of village-records; or

(d) sanads, inam title-deeds and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land; or

The Indian Registration Act, 1908.

(Part XV.—Miscellaneous.)

Bom. V of
1879.

(e) notices given under section 74 or section 76 of the Bombay Land-revenue Code, 1879, of relinquishment of occupancy by occupants, or of alienated land by holders of such land.

(g) All such documents and maps shall, for the purposes of sections 48 and 49, be deemed to have been and to be registered in accordance with the provisions of this Act.

91. Subject to such rules and the previous inspection and payment of such fees as copies of such documents the Local Government prescribes in this behalf, all documents and maps mentioned in section 90, clauses (a), (b), (c) and (e), and all registers of the documents mentioned in clause (d), shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

III of 1877. 92. All rules relating to registration enforced in Lower Burma prior to the commencement of the Indian Registration Act, 1877, shall be deemed to have had the force of law, and no suit or other proceeding shall be maintained against any officer or other person in respect of anything done under any of the said rules.

Repeals.

93. (1) The enactments mentioned in the Repeals. schedule are repealed to the extent specified in the fourth column thereof.

(2) Nothing herein contained shall be deemed to affect any provision of any enactment in force in any part of British India and not hereby expressly repealed.

THE SCHEDULE.

REPEAL OF ENACTMENTS.

(See section 93.)

Year.	No.	Short title.	Extent of repeal.
1877	III	The Indian Registration Act, 1877.	The whole.
1879	XII	The Registration and Limitation Acts Amendment Act, 1879.	So much as is unrepealed.
1883	XIX	The Land Improvement Loans Act, 1883.	So much of section 12 as is unrepealed.
1886	VII	The Indian Registration Act, 1886.	The whole.
1888	VII	The Civil Procedure Code Amendment Act, 1888.	So much as is unrepealed.
1891	XII	The Amending Act, 1891.	In the second schedule the entries relating to Act III of 1877.
1899	XVII	The Indian Registration Amendment Act, 1899.	The whole.

J. M. MACPHERSON,
Secretary to the Government of India,

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 18th December, 1908, and is hereby promulgated for general information:—

ACT NO. XVII OF 1908.

THE INDIAN EMIGRATION ACT, 1908.

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The Indian Emigration Act, 1908.

(Chapter I.—Preliminary. Chapter II.—Ports from which, and Countries to which Emigration is lawful.)

An Act to consolidate the enactments relating to the Emigration of Natives of India.

WHEREAS it is expedient to consolidate the enactments relating to the emigration of Natives of India and their departure by sea out of India for certain purposes; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Emigration Act, 1908; Short title and extent. and

(2) It extends to the whole of British India.

2. (1) In this Act, unless there is anything repugnant in the subject Definitions. or context,—

(i) "dependent" means any of the following persons accompanying any emigrant, namely:—

(a) any woman who has not entered into an agreement to emigrate under this Act;

(b) any child in whose name and on whose behalf any such agreement has not been entered into; and

(c) any aged or incapacitated relative or friend:

(ii) "emigrant" means any Native of India who emigrates, or has emigrated, within the meaning of clause (iv) or who has been registered under this Act as an emigrant, and includes any dependent of an emigrant:

(iii) "emigrant-vessel" means a vessel the master of which is licensed under this Act to carry emigrants therein:

(iv) "emigrate" and "emigration" denote the departure by sea out of British India of a Native of India under an agreement to labour for hire in some country beyond the limits of India other than the island of Ceylon or the Straits Settlements:

(v) "labour" means unskilled labour and does not include any work or other occupation of the nature hereinafter referred to in Chapter XI:

(vi) "Magistrate" means, in the Presidency-towns, a Presidency Magistrate, and elsewhere a District Magistrate or a Sub-divisional Magistrate, and includes also any person appointed by the Local Government to perform in any area the functions of a Magistrate under this Act.

(vii) "master" means any person (except a pilot or harbour-master) having for the time being control or charge of a vessel:

(viii) "recruiter" includes a head recruiter or other person who collects or receives emigrants recruited by other persons:

(ix) "Registering Officer" means any person appointed by the Local Government to perform in any area the functions of a Registering Officer under this Act: and

(x) "vessel" includes anything made for the conveyance by water of human beings or property.

(2) In case of any doubt or dispute as to whether any person should be deemed—

(a) to emigrate, or

(b) to be a Native of India,

within the meaning of this Act, the question shall be determined by such person and in such manner as the Governor General in Council may, by rules made under this Act, direct, and such determination shall be final.

CHAPTER II.

PORTS FROM WHICH, AND COUNTRIES TO WHICH, EMIGRATION IS LAWFUL.

3. (1) Emigration shall not be lawful except Ports from which from the ports of Calcutta, emigration is lawful. Madras, Bombay and Karachi and from such other ports as the Governor General in Council, by notification in the Gazette of India, declares to be ports from which emigration is lawful.

(2) The Local Government may, by notification in the local official Gazette, fix for the purposes of this Act the limits of any port from which emigration is lawful.

4. (1) Emigration shall not be lawful except Countries to which to the countries specified emigration is lawful. in the first Schedule and to such other countries as the Governor General in Council, by notification in the Gazette of India, declares to be countries to which emigration is lawful.

(2) Every notification under this section must contain a declaration that the Governor General in Council has been duly certified that the Government of the country to which the notification refers has made such laws and other provisions as the Governor General in Council thinks sufficient for the protection of emigrants to that country during their residence therein.

5. (1) Where the Governor General in Power for Governor Council has reason to believe that any of the General in Council to lieve that any of the prohibit emigration to grounds, hereinafter any country. mentioned, for prohibiting emigration to any country to which emigration is lawful, exists, he may, by notification in the Gazette of India, declare that emigration to that country shall cease to be lawful from a day

The Indian Emigration Act, 1908.

(*Chapter II.—Ports from which, and Countries to which, Emigration is lawful.*
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specified in the notification; and from that day emigration to that country shall accordingly cease to be lawful.

(2) The grounds referred to in sub-section (1) are—

- (a) that the plague or any other epidemic disease dangerous to human life has broken out in the country;
- (b) that the mortality among emigrants in the country is excessive;
- (c) that proper measures have not been taken for the protection of emigrants immediately on their arrival in the country or during their residence therein;
- (d) that the agreements made with emigrants as such before their departure from India are not duly enforced by the Government of the country; and
- (e) that the Governor General in Council, having, either directly or through the Secretary of State for India in Council, addressed the Government of the country with a view to obtain information regarding the condition or treatment of emigrants therein, has not within a reasonable time received the information asked for.

6. (1) Where the Local Government has

Power for Local Government to suspend emigration pending reference to Governor General in Council.

any country to which emigration is lawful, the plague or other epidemic disease dangerous to human life has broken out, and that emigrants, if allowed to emigrate to that country, would be exposed to serious risk of life on arrival there, it may, by notification in the local official Gazette, declare that emigration to that country from any port in the territories administered by it shall cease to be lawful pending a reference to the Governor General in Council.

(2) The Local Government shall at once report the publication of a notification under this section, with the reasons for it, to the Governor General in Council, who shall thereupon publish a notification in the Gazette of India confirming or cancelling the notification published by the Local Government.

7. Where the Governor General in Council is satisfied that the ground on which a notification has been published by him under either of the two last foregoing sections with respect to any country has ceased to exist, he may, by notification in the Gazette of India, declare that emigration to that country shall again be lawful from a day to be specified in the notification.

8. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, prohibit, from a day specified in the notification, all Natives of

India or any specified class of such Natives from emigrating from the whole or any specified part of the territories under its administration to any specified country.

9. The publication of a notification under any

Saving for acts done before publication of any act done, offence committed or proceedings commenced before the publication.

CHAPTER III.**EMIGRATION AGENTS.**

10. (1) The Government of every country to which emigration is lawful

Appointment of Emigration Agents. may, from time to time, appoint a person to be Emigration Agent in any port from which emigration is lawful.

(2) An appointment under this section shall not take effect until the Local Government, by notification in the local official Gazette, has declared its approval of the appointment.

xi. The remuneration to be given to an Emigration Agent shall not depend on, or be regulated by, the number of emigrants sent by him, but shall be in the nature of a fixed salary:

Provided that the Governor General in Council may authorize the payment to specified Emigration Agents of special fees for occasional work.

CHAPTER IV.**PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.**

12. (1) The Local Government may appoint a proper person to be the Protector of Emigrants for any port within the territories administered by it from which emigration is lawful.

(2) The Governor General in Council may define the area to which the authority of any Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

13. Every Protector of Emigrants, in addition to the special duties assigned to him by this Act or the rules made under this Act, shall—

- (a) protect and aid with his advice all emigrants;

XLV of
1860.

*The Indian Emigration Act, 1908.***• (Chapter IV.—Protectors of Emigrants and Medical Inspectors. Chapter V.—Recruiters.)**

- (b) cause, so far as he can, all the provisions of this Act and of the rules made under this Act to be complied with;
- (c) inspect, on arrival, all vessels bringing return emigrants to the port for which he is Protector;
- (d) enquire into the treatment received by the return-emigrants both during the period of their service in the country to which they emigrated, and also during the return voyage, and report thereon to the Local Government; and
- (e) aid and advise the return emigrants so far as he reasonably can.

14. (1) The Local Government may appoint one or more Medical Inspectors of Emigrants

at each port from which emigration is lawful and may apportion their respective duties.

(2) Every Medical Inspector of Emigrants shall be a public servant within the meaning

XLV of 1860 of the Indian Penal Code.

15. Every Emigration Agent and all persons in charge of, or employed in, any dépôt established under this Act, or in charge of, or employed in, any emigrant-vessel, shall give the Protector of Emigrants and the Medical Inspector of Emigrants every facility for making such inspections, examinations and surveys as are required by this Act or by the rules made under this Act, or as those officers may deem necessary or proper, and shall afford them all such information as they may reasonably require.

CHAPTER V. RECRUITERS.

16. (1) The Protector of Emigrants at each of the ports from which emigration is lawful shall, on the application of the Emigration Agent for any country to which emigration is lawful, grant licenses to so many fit persons as to the Protector seems necessary to be recruiters of emigrants within the area to which the authority of the Protector extends.

(2) A person shall not, unless he holds a license granted under this Chapter,—

- (a) enter into, or attempt to enter into, any agreement with any person purporting to bind him to emigrate, or
- (b) in consideration of any bribe or reward, induce or attempt to induce any person to leave any place for the purpose of emigrating, or
- (c) act or be employed in any other respect as a recruiter of emigrants.

(3) Every recruiter shall produce his license when called upon to do so by any Magistrate or officer in charge of a police-station.

17. Every license granted under this Chapter shall specify the particular country for which, and the area within which, the holder is licensed to recruit, and may be in the form set forth in the second schedule.

18. (1) A license granted under this Chapter shall not be in force for a longer period than one year from the day on which it comes into force.

(2) The Protector of Emigrants may, on the ground of misconduct, cancel any license granted by him under this Chapter before the expiration of the period for which it is in force.

19. (1) A recruiter shall not, in any place beyond the limits of a port countersigned by him, from which emigration is lawful, enter or attempt to enter into any agreement with any person purporting to bind him to emigrate, or induce or assist, or attempt to induce or assist, any person to leave any place for the purpose of emigrating, or act or be employed in any other respect as a recruiter of emigrants, unless his license bears the countersignature of the District Magistrate.

(2) If a District Magistrate has satisfied himself, after such enquiry as he thinks necessary, that the licensee is, by character or from any other cause, unfit to be a recruiter under this Act, he may refuse to countersign a recruiter's license.

(3) If a District Magistrate has satisfied himself, after such enquiry as aforesaid, that sufficient and proper accommodation has not been provided in a suitable place, or is not available, for such intending emigrants or emigrants as may be collected by the recruiter pending their registration or removal to the dépôt at the port of embarkation, he may refuse to countersign a recruiter's license or to decide whether he will countersign his license until after the expiration of such time as may in his opinion be reasonable.

(4) Before a Magistrate refuses to countersign, or defers his countersignature of, a recruiter's license, he shall record in writing his reasons for so doing.

20. If any Magistrate, having countersigned a recruiter's license afterwards finds reason to cancel countersignature, he may require the licensee to produce his license, and may cancel

*The Indian Emigration Act, 1908.**(Chapter V.—Recruiters. Chapter VI.—Registration of Emigrants and Execution of Agreements to emigrate.)*

the countersignature on it, or may impound the license and send it for cancellation to the Protector of Emigrants who granted it.

21. When a Magistrate countersigns, or re-

Notice to Protector of Emigrants of countersignature, refusal to countersign or cancellation of countersignature. If a recruiter's license, or cancels the countersignature on it, he shall at once report the counter-

signature, or the refusal or cancellation, and the grounds of the refusal or cancellation, to the Protector of Emigrants who granted the license.

22. (1) The Emigration Agent on whose

Recruiter to be supplied with statement of terms of agreement he is authorized to offer. application any recruiter is licensed shall supply the recruiter with a written or printed state-

Agent, and countersigned by the Protector of Emigrants, of the terms of agreement which the recruiter is authorized to offer on behalf of the Agent to intending emigrants.

(a) The statement shall be both in English and in the vernacular language or languages of the local area within which the recruiter is licensed to recruit.

(b) The recruiter shall give a true copy of the statement to every person whom he invites to emigrate, and shall produce the statement for the information of any Magistrate or officer in charge of a police-station, when called upon to do so by the Magistrate or officer.

23. (1) Every recruiter shall provide sufficient Accommodation to and proper accommodation be provided by re- in a suitable place for such emigrants. intending emigrants or emigrants as may be collected by him pending their registration or removal to the port of embarkation.

(2) The place where the accommodation is provided shall have a board fixed in some conspicuous position specifying the purpose for which the place is used.

(3) Every District Magistrate, and any subordinate Magistrate, or officer of Police authorized in this behalf by a rule made under this Act, shall have, for the supervision and regulation of the places where accommodation is provided under this section, the same powers as are by this Act conferred on a Protector of Emigrants in respect of depots at the port of embarkation.

(4) All recruiters or other persons in charge of these places shall afford every Magistrate and any officer of Police authorized as aforesaid in this behalf every facility for visiting and inspecting them.

CHAPTER VI.**REGISTRATION OF EMIGRANTS AND EXECUTION OF AGREEMENTS TO EMIGRATE.**

24. The Local Government may appoint Power for Local Gov- any person to perform in ernment to appoint a specified area, but Registering Officers. subject to the control of the District Magistrate or such other officer as the Local Government

appoints in this behalf, the functions of a Registering Officer under this Act.

25. Every agreement to emigrate entered into Execution of agree- by any person must,—

(a) if executed within the limits of any port from which emigration is lawful, be executed in the presence of the Protector;

(b) if executed elsewhere, be executed in the presence of a Registering Officer.

26. Every recruiter who desires to engage Appearance of intend- any person to emigrate ing emigrants before shall appear before a Registering Officer. Registering Officer or the Protector of Emigrants (as the case may be), with that person, and with any persons intending to accompany that person as his dependents.

27. (1) The Registering Officer or Protector Examination and regis- shall thereupon examine tration of emigrant the person, apart from the recruiter, with reference to his intended agreement.

(a) If on such examination it appears,—

(a) that such person is competent and willing to enter into the agreement and understands its nature,

(b) that he has not been induced to enter into it by any coercion, undue influence, fraud, misrepresentation or mistake, and

(c) that its terms are in conformity with law and are such as, according to the statement furnished to the recruiter under section 22, he was authorized to offer,

the Registering Officer or Protector shall, subject to the provisions of section 29, register in a book to be kept for the purpose, in such form as the Governor General in Council, by rules made under this Act, prescribes,—

(i) the name, sex, name of the father, caste, occupation and age of the intending emigrant,

(ii) the name of the village or place of which he is a resident, and

(iii) such other particulars (if any) concerning him and his dependents (if any) as the Governor General in Council, by rules made under this Act, prescribes.

28. (1) Notwithstanding anything contained Power to refuse regis- in the last foregoing tration in cases of section, the Registering married women. Officer or Protector may refuse to register any married woman under that section if he finds that her husband does not consent to her emigrating.

(2) The Registering Officer or Protector may also, in the case of any woman whom he believes to be married, refuse to decide whether he will register her until after the expiration of such time, not exceeding ten days, as he thinks fit.

29. (1) When any person appears before a Examination of depen- Registering Officer or dent. Protector under section 26 as a dependent of an intending emigrant, the Registering Officer or Protector shall, if the person is able to give intelligent answers

The Indian Emigration Act, 1908.

(Chapter VI.—Registration of Emigrants and Execution of Agreements to emigrate Chapter VII.—Emigration Depots.)

to questions, examine him, apart from the recruiter, as to his dependence on the intending emigrant whom he is about to accompany, and as to his willingness to emigrate.

(a) Where the Registering Officer or Protector sees reason to doubt the existence of the dependence or willingness, he may, if he thinks fit, refuse to register the intending emigrant, unless the name of the dependent is omitted from the register.

30. Where the Registering Officer or Protector refuses to register any intending emigrant, he shall record his reasons for the refusal.

31. (1) Where the particulars concerning any intending emigrant and his dependents (if any) have been registered, the Registering Officer or Protector shall cause an agreement to be prepared in duplicate and shall call on the recruiter and the intending emigrant to execute the agreement in duplicate in his presence, and if they execute it, shall attest the execution with his signature.

(2) An agreement to emigrate shall not be of any effect until the particulars concerning the intending emigrant and his dependents (if any) have been registered, and the agreement has been executed and attested under this Act.

(3) When the particulars concerning any intending emigrant and his dependents (if any) have been registered and an agreement has been executed and attested under this Act, the intending emigrant shall be deemed to be registered under this Act as an emigrant.

(4) Any number of intending emigrants appearing with the same recruiter before the Registering Officer or Protector at the same time, and desiring to emigrate on the same terms to the same country, may, with the permission of the Registering Officer or Protector (as the case may be), execute one instrument of agreement under this section, instead of each of such intending emigrants executing a separate instrument.

32. Every agreement to emigrate shall contain a copy of the particulars registered concerning the intending emigrant and his dependents (if any) under section 27, and on the reverse such particulars concerning the nature, duration and term of service and the remuneration of the emigrant, and such other matters (if any) as the Governor General in Council, by rules made under this Act, prescribes.

33. When the agreement has been executed Record of registration and attested,—

(a) one of the copies thereof shall be delivered to the emigrant, and the other shall be retained by the Protector or sent by the Registering Officer to him; and

(b) a certified copy of the particulars registered under section 27, concerning the emigrant or emigrants by whom the agreement was executed, and concerning his or their dependents (if any), shall be delivered to the recruiter for transmission to the Emigration Agent.

34. For the preparation of every agreement Power for preparation under this Chapter the recruiter or Emigration Agent shall pay such fee as the Governor General in Council, by notification in the Gazette of India, prescribes:

Provided that the Governor General in Council may at any time, by like notification, declare that the fee payable under this section shall be consolidated, either generally or in any specified area, with the fee payable under section 68.

35. Notwithstanding anything to the contrary Power to make agreement if over sixteen. in the Indian Contract Act, 1872, it shall be lawful for any person of the age of sixteen years or upwards to enter into manner in this Act provided into an agreement to emigrate to any place to which emigration is lawful.

36. Any person entering into an agreement Power to make agreement on behalf of child to emigrate, and being the parent or guardian of a child under the age of sixteen years and above the age of ten years, may, in the name of and on behalf of the child, enter into an agreement in manner in this Act provided binding the child to emigrate with him.

CHAPTER VII.

EMIGRATION DEPOTS.

37. Every Emigration Agent shall establish Depots to be established at the port for which he is appointed a suitable barkation. depot for the reception and lodging of emigrants before embarkation for the country for which he is Emigration Agent, and shall provide all necessary food and clothing for all emigrants during their stay at the depot.

38. (1) A depot established under the last Licensing of depots. foregoing section shall not be used for the reception and lodging of emigrants until it has been inspected and approved by the Protector of Emigrants and the Medical Inspector of Emigrants, and a license for its use has been granted by the Protector.

(2) A license under this section shall not be granted for a longer period than one year from the day on which it comes into force.

(3) The Protector of Emigrants may at any time cancel a license under this section—

The Indian Emigration Act, 1908.(Chapter VII.—*Emigration Depots. Chapter VIII.—Conveyance of Emigrants to Depots and Procedure on Arrival*)

(a) if he considers that the depot for which it was granted is unhealthy, or has in any respect become unsuitable for the purpose for which it was established; or

(b) if the Emigration Agent fails, after reasonable notice, to comply with any of the requirements of this Act or of the rules made under this Act.

39. The Protector of Emigrants and the Medical Inspector shall from time to time, and at least once in every week during which any emigrants may be kept in any depot at the port for which they are Protector and Medical Inspector, respectively, inspect the emigrants in that depot and examine the state of the depot and the manner in which the emigrants therein are lodged, fed, clothed and otherwise provided for and attended to.

40. The Medical Inspector shall report to the Medical Inspector of Emigrants in any circumstance that may come to his knowledge showing that any depot is not suitable for its purpose, or that the emigrants lodged therein are treated with any oppression or neglect.

41. (1) The Medical Inspector may, if he thinks fit, direct that any emigrant suffering from any disease likely to be dangerous to his neighbours shall be isolated or excluded from the depot.

(2) The Medical Inspector may, if he thinks fit, order the removal of any emigrant so suffering to a proper hospital for treatment at the expense of the Emigration Agent; and the expense (if any) incurred by the Protector of Emigrants in respect of the removal of the emigrant and his treatment in the hospital shall be recoverable from the Emigration Agent by the Protector of Emigrants, with interest thereon at the rate of six per centum per annum from the date on which the expense was incurred.

CHAPTER VIII.

CONVEYANCE OF EMIGRANTS TO DEPOTS AND PROCEDURE ON ARRIVAL.

42. A recruiter shall not remove or attempt to remove any intending emigrant to a depot, or induce or attempt to induce him to go to a depot, or to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned, or aid him in going to a depot, or in leaving any such local limits, until the intending emigrant has been registered under this Act as an emigrant.

43. (1) Every emigrant must, after he has been registered under this Act, be conveyed

with all convenient despatch, by or under the orders of the recruiter or Emigration Agent, to the depot established at the port of embarkation by the Emigration Agent on whose application the recruiter has been licensed.

(2) When an emigrant has been registered at a place beyond the limits of the port of embarkation, he must, while proceeding to the depot, be accompanied throughout the journey either by the recruiter himself, or by a competent person appointed by him with the approval of a Magistrate.

(3) The Magistrate shall give to the person so appointed a certificate signed by him stating that he has been appointed for the journey to the depot.

(4) The recruiter or the person so appointed shall, throughout the journey, provide the emigrant with proper and sufficient food and lodging.

44. The arrival at a depot of each emigrant Report of arrival at depot must immediately be reported by the person in charge of the depot to the Emigration Agent and by the Agent to the Protector of Emigrants.

45. (1) The copy of the particulars registered Examination by Medi. under section 27, received cal inspector. by the recruiter from the Registering Officer or Protector, must, as soon as conveniently may be after the arrival of the emigrant at the depot, be shown by the Emigration Agent to the Medical Inspector of Emigrants.

(2) The Medical Inspector shall examine each emigrant whose name is entered in the said copy to ascertain whether he is fit, having regard to his age and state of health, to undertake the journey to the country to which he has agreed to emigrate.

(3) The Medical Inspector, if satisfied of his fitness, shall give a certificate to that effect to the Emigration Agent. If not so satisfied, he shall give a certificate to that effect to the Protector of Emigrants.

Power for Protector to order payment of expenses of return of emigrant in certain cases.

46. (1) In any of the following cases, namely—

(a) if the Medical Inspector of Emigrants finds that an emigrant is, or has become, unfit to undertake the journey to the country to which he has agreed to emigrate, and if the Protector of Emigrants considers that the emigrant has not dishonestly represented himself as fit to undertake the journey, or

(b) if the Protector finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of any emigrant as makes it just to rescind the agreement to emigrate, or

The Indian Emigration Act, 1908.

(Chapter VIII.—Conveyance of Emigrants to Depots and Procedure on Arrival.)

(c) if the Emigration Agent refuses to fulfil the agreement entered into with the emigrant,

the Protector may order the Emigration Agent to pay to the emigrant such sum as the Protector deems reasonable as compensation, and, when the emigrant has been registered at a place beyond the limits of the port of embarkation, such reasonable sum as is necessary to enable him to return to the place at which he was registered, and may take any steps which he thinks necessary for the conveyance of the emigrant to that place.

(2) Any emigrant who has been registered at any place beyond the limits of the port of embarkation, and who from his state of health is, in the opinion of the Medical Inspector of Emigrants, unfit to undertake at once the return-journey to the place at which he was registered, shall be entitled to be fed, lodged, clothed and attended to at the depot at the expense of the Emigration Agent until he is reported by the Medical Inspector fit to undertake the return-journey.

47. (1) Where any order is made under the Payment of expenses of last foregoing section with dependents and relatives. reference to any emigrant who was registered at any place beyond the limits of the port of embarkation—

(a) any emigrant who has been registered as his dependent, or

(b) any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of the emigrant,

shall be entitled—

(i) to be conveyed at the expense of the Emigration Agent with the emigrant to the place at which he was registered; and

(ii) if the emigrant is unable to travel, to be lodged, fed and clothed in the depot at the expense of the Emigration Agent until the emigrant is able to travel.

(2) The Protector of Emigrants may include any expenses incurred under this section in an order made under the last foregoing section with respect to the emigrant.

48. If it appears that during the journey to Compensation to emi. the depot any emigrant has grant for ill-treatment suffered any ill-treatment, on journey. or that, in the case of any emigrant who has been registered at a place beyond the limits of the port of embarkation, the provisions of section 43 have not been complied with, the Protector of Emigrants may order the Emigration Agent to pay—

(a) to the emigrant a reasonable sum by way of compensation, and

(b) to the Protector the expenses (if any) which may have been incurred by or under the orders of the Protector on

behalf of the emigrant by reason of the neglect to comply with the provisions of section 43.

49. (1) On failure of the Emigration Agent

Power for Protector to pay and recover expenses incurred on behalf of emigrant. for twenty-four hours to comply with an order of the Protector for the payment of any sum to an emigrant under any of the last three foregoing sections, the Protector may pay the same to the emigrant.

(2) Every sum paid by the Protector to an emigrant under sub-section (1), and, on failure of the Emigration Agent for twenty-four hours to comply with an order for payment thereof under the last foregoing section, every sum which the Protector may have ordered the Emigration Agent to pay to him under that section, shall be recoverable from the Emigration Agent with interest thereon at the rate of six per centum per annum from the date of payment.

(3) Further proof shall not be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the sum, and that the Emigration Agent for twenty-four hours failed to comply with the order.

CHAPTER IX.

EMIGRANT-VESSELS.

50. An emigrant shall not be received on board any vessel unless a Master of emigrant. license to carry emigrants vessel to be licensed. in the vessel has been obtained from the Local Government.

51. (1) When the master or owner of any Application for vessel desires to obtain a license. license to carry emigrants in his vessel, he shall apply in writing through the Protector of Emigrants to the Local Government for the license.

(2) The application must state the number of emigrants which, according to the rules as to space contained in this Chapter, the applicant deems the vessel capable of carrying, and the tonnage and such other particulars respecting the vessel as the Governor General in Council, by rules made under this Act, prescribes.

52. (1) The Protector of Emigrants shall cause Survey and licensing of vessel. the vessel to be surveyed by a competent person at the cost of the master or owner, with a view to ascertain her seaworthiness, and the extent and nature of her accommodation for emigrants, and to ascertain that she is properly ventilated, and is supplied with all the tackle, apparel and furniture requisite for her intended voyage:

*The Indian Emigration Act, 1908.**(Chapter IX.—Emigrant-vessels. Chapter X.—Embarkation and Departure.)*

Provided that, if the vessel is a steam-ship having a certificate of survey granted by the Board of Trade or any British Colonial Government or under the Indian Steamships Act, 1884, and in force and applicable to her intended voyage, the survey under this subsection with a view to ascertain her seaworthiness shall not extend to her hull or machinery unless the Protector of Emigrants has reason to believe that, since the grant of the certificate, her hull or machinery has sustained injury or damage or has otherwise become inefficient.

(2) If the Local Government is of opinion that the vessel is in all respects suitable for the carrying of emigrants under this Act, and is properly manned and officered, it shall give to the master of the vessel a license to carry emigrants therein specifying the number of emigrants which may be received on board.

53. (1) A license shall not be granted under Accommodation required on board emigrant-vessel, unless—

(a) there is provided for the emigrants, either between decks or, subject to the approval of the Protector of Emigrants and the Medical Inspector, in cabins on the upper deck, a space devoted to the exclusive use of the emigrants having in every part a height of not less than six feet;

(b) a separate place is fitted up for a hospital; and

(c) such arrangements are made for the separation of women (married or single) and children from the other emigrants as the Governor General in Council, by rules made under this Act, prescribes.

(2) The cabins on the upper deck provided under clause (a) of this section must be firmly secured and entirely covered in.

54. Every emigrant vessel shall contain Rules as to space within the space referred to board emigrant-vessel. in clause (a) of the last foregoing section at least twelve superficial feet and seventy-two cubic feet of space for each emigrant:

Provided that two emigrants under the age of ten years shall for the purposes of this section count as one only.

55. There shall be on board every emigrant-vessel at the time of departure of the vessel from the port at which they embark, provisions, clothing, fuel and water for the emigrants (over and above the supply for the master, officers and crew, and of the cabin and other passengers, if any), in such quantity and of such description and quality as the Governor General in Council by rules made under this Act, prescribes.

56. Every emigrant-vessel shall, at the time of departure of the vessel from the port at which the emigrants embark, have on board, and shall carry with her, a properly qualified surgeon, and also such compounders, interpreters and attendants subordinate to the surgeon, and such medicines and other stores, in such quantity and of such quality as the Governor General in Council, by rules made under this Act, prescribes.

57. The Protector of Emigrants and the Duty of Protector and Medical Inspector of Emigrants shall see personally that all the provisions of respect to enforcement of foregoing sections. the last two foregoing sections are complied with.

58. (1) Every master licensed under this Act Bond to be executed by master of emigrant-vessel shall, on the requisition of the Protector of Emigrants, and before any emigrant embarks on board his vessel, execute to the Protector in duplicate, a bond, in such form as the Local Government prescribes, binding himself and the owner of the vessel in a penal sum of ten thousand rupees, to perform the duties imposed by this Act or any rule made under this Act on a master and owner, respectively.

(2) The Protector of Emigrants shall forward one copy of the bond to such officer as may be appointed in this behalf by the Government of the country to which the emigrants are to be conveyed, or, in the case of a foreign colony, to the British Consular Agent, and the other copy to the Local Government.

CHAPTER X.

EMBARKATION AND DEPARTURE.

59. An emigrant shall not embark, except Time of embarkation with the permission of the after arrival. Protector of Emigrants, until seven days have elapsed from the date of his arrival at the dep^t.

60. (1) An emigrant-vessel shall not sail from Time at which emigrant-vessels may leave any port in British India—India.

(a) to any country west of the Cape of Good Hope, except at such seasons as the Governor General in Council, by rules made under this Act, prescribes as seasons during which it shall be lawful for emigrant-vessels generally, or of a class to which the vessel belongs, to sail to that country;

(b) to any country during any season which the Governor General in Council, by notification in the Gazette of India, declares to be a season during which the sailing of emigrant-vessels to that country is prohibited.

The Indian Emigration Act, 1908.

(Chapter X.—Emigration and Departure.)

61. If any emigrant without sufficient cause refuses to embark when called on by the Emigration Agent to do so, it shall not be lawful to compel the emigrant to embark:

Provided that nothing in this section shall affect the civil or criminal liabilities which an emigrant incurs by reason or in respect of any such refusal or neglect.

62. (1) When any emigrants are about to embark on board any vessel, the Emigration Agent shall supply the master of the vessel with four copies of a list, specifying, as accurately as may be, the names, ages and occupations of the emigrants, and the names of their respective fathers.

(2) The master shall not receive any emigrant on board unless he is provided with a pass, signed by the Emigration Agent, and countersigned by the Protector, stating the name and age of the emigrant, the name of his father, and the country to which he has agreed to emigrate, and certifying that he is in a fit state of health to undertake the voyage to that country.

(3) Every emigrant shall on embarkation deliver the pass to the master.

(4) The master shall compare the emigrants who embark and the passes delivered by them with the list supplied by the Emigration Agent; and, if the list appears to be correct and to correspond with the passes delivered and with the emigrants embarked, the master shall sign the four copies of the list.

(5) The master shall not permit any emigrant to remain on board who has not delivered up his pass to the master or is not mentioned in the list.

63. (1) When the copies of the list have been signed, the master shall give two of the copies to the Protector of Emigrants, who shall sign them if he believes them to be correct.

(2) The Protector shall send one of the copies so signed by him by the vessel which carries the emigrants to such officer as may be appointed in this behalf by the Government of the country to which the emigrants have agreed to emigrate, or, in the case of a foreign colony, to the British Consular Agent, and shall file the other copy in his own office.

64. (1) The master shall give to the Emigration Agent the two remaining copies of the list.

(2) The Emigration Agent shall thereupon sign the copies, and shall return one of them to the master.

(3) The master shall, on the arrival of the vessel at the country to which the emigrants

have agreed to emigrate and before their disembarkation, deliver the copy so returned to him to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

65. (1) The Medical Inspector shall be present at the embarkation of all emigrants, and shall examine each emigrant to ascertain if he is in a fit state of health to undertake the voyage to the country to which he has agreed to emigrate; and, if he finds that he is not fit to undertake the voyage, he shall inform the Protector accordingly.

(2) The Protector may thereupon refuse to permit the emigrant to embark; and any emigrant registered as a dependent of an emigrant whom the Protector has refused to permit to embark, or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of the emigrant, may, notwithstanding anything in this Act, refuse to embark.

(3) The provisions of sections 46, 47 and 49 shall apply to emigrants, who under this section are not permitted to embark, and to any emigrants who under this section refuse to embark, and to the recovery of expenses incurred under this Act in respect of them.

66. Before any emigrant-vessel clears out of any port, the master of the vessel shall obtain from the Emigration Agent, Protector of Emigrants at the port, and from the Emigration Agent for the country to which the emigrants are to be conveyed, certificates, signed by the Protector and Emigration Agent, respectively, to the effect that the Protector and Agent have, in respect of all the emigrants embarking at that port in the vessel, done all that is required by the foregoing provisions of this Act, or by the rules made under this Act, to be done on the part of the Protector and Agent, respectively, and that all the directions for the security, well-being and protection of emigrants which are contained in this Act or in the rules made under this Act have, in the case of that vessel, been complied with.

67. The master of every emigrant-vessel shall keep on board the vessel rules to be kept on during the whole voyage two copies of this Act, and of all rules made under this Act, and two copies of a translation of this Act, and of those rules, in such language or languages as the Local Government directs, and shall, on request made at any reasonable time, produce one of those copies to any emigrant for his perusal.

68. For each emigrant who embarks on board an emigrant-vessel the Emigration Agent shall pay to the Protector of Emigrants a fee of such amount as the Governor-General in Council

The Indian Emigration Act, 1908.

(*Chapter X.—Embarkation and Departure. Chapter XI.—Departure of Natives of India by Sea out of India for certain purposes.*)

by notification in the Gazette of India, prescribes:

Provided as follows:—

(a) the fee payable under this section shall not be more than is, in the opinion of the Governor-General in Council, sufficient to raise the total income from fees under this Act to an amount which will cover the cost of any establishment or supervision which the Governor-General in Council thinks necessary to provide for the control of emigration;

(b) if it appears to the Governor-General in Council expedient to provide, in the case of any country, any special establishment or expenditure for the protection of Indian emigrants to that country, the Governor-General in Council may increase the fee payable in the case of emigrants to that country to an amount sufficient, in his opinion, to cover the cost of the special establishment or expenditure.

69. Every master licensed under this Act Master to see to shall see that all the observance of Act and provisions of this Act and the rules on board his vessel made under this Act are observed on board his

vessel during the voyage from British India to the country to which the emigrants are to be conveyed.

70. The master shall return his pass to each Return of pass to emigrant before he dis- emigrant. embarks in the country to which he has agreed to emigrate.

Special Provisions as to Vessels sailing from Calcutta.

71. The master of every vessel carrying emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the emigrants as have first embarked.

72. Every sailing-vessel leaving the port of Calcutta with emigrants from Calcutta to be towed to sea. Reach to sea under tow of a steamer declared to be competent by such officer as the Local Government appoints in this behalf.

73. (i) Where an emigrant-vessel leaves the port of Calcutta, if during her passage down the river, and while between Garden Reach and Diamond Harbour, the disease of measles, scarlet-fever or small-pox appears on board, the master shall, if so required by the surgeon

in charge of the emigrants, send to the hospital at Diamond Harbour all emigrants suffering from the disease, with any emigrants registered as their dependents and any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of any such emigrant and who wishes to accompany him or her, and shall at once inform the Protector of Emigrants at Calcutta of the number and names of the emigrants so sent to hospital.

(ii) The provisions of sections 46, 47 and 49 shall, so far as may be, apply to emigrants landed under this section, and to the recovery of expenses incurred in respect of them.

74. (i) In the event of cholera in an epidemic Power of surgeon of form appearing among the emigrant-vessel leaving emigrants on board any Calcutta to require all such vessel carrying emigrants to be landed grants from the port of when cholera appears. Calcutta, the surgeon in charge of the emigrants may require the master to land all the emigrants on board the vessel at Diamond Harbour.

(ii) The master shall at once comply with the request of the surgeon, and shall immediately give notice of his having done so to the Protector of Emigrants at Calcutta, who shall take such action thereon as the Governor-General in Council, by rules made under this Act, prescribes.

CHAPTER XI.

DEPARTURE OF NATIVES OF INDIA BY SEA OUT OF INDIA FOR CERTAIN PURPOSES.

75. (i) Whoever desires to engage any Native Application for permission of India to depart by sea to engage Natives of India to depart abroad for certain purposes—

- (a) of working as an artisan, or
- (b) of any exhibition or entertainment, or
- (c) of service in any restaurant, tea-house or other place of public resort, or,
- (d) save as provided in sub-section (2), of domestic service,

in any place beyond the limits of India other than the Island of Ceylon or the Straits Settlements, shall apply for the permission of the Local Government having jurisdiction at the port from which such person is to depart, and shall state in his application—

- (i) the number of the persons whom he proposes so to engage;
- (ii) the place or places beyond the limits of India to which such persons and their dependents are to proceed;

The Indian Emigration Act, 1908.

(*Chapter XI.—Departure of Natives of India by Sea out of India for certain purposes.*
Chapter XII.—Rules.)

- (iii) the accommodation to be provided for such persons and their dependents until their departure out of India and during the voyage;
 - (iv) the provision to be made for the health and well-being of such persons and their dependents during the period of the proposed engagement, and for their repatriation at the end of such period;
 - (v) the terms of the agreements under which such persons are to be engaged; and
 - (vi) the security in British India which he proposes to furnish for the due observance of such agreements and for the proper treatment of the persons to be engaged and their dependents.
- (2) Nothing in sub-section (1) shall be deemed to apply to any person who in good faith—
- (a) engages a Native of India to accompany him out of India as his personal domestic servant, or
 - (b) engages in compliance with the request of some other person, not being in India, a Native of India to depart out of India for the purpose of becoming the personal domestic servant of such other person.

Explanation.—For the purposes of this Chapter—

- (i) the word "port" shall mean a port from which emigration is lawful or any port which the Governor General in Council, by notification in the Gazette of India, notifies in this behalf; and
- (ii) the words "emigrant" and "emigrate" in the definition of "dependent" in section 2, sub-section (1), clause (i), shall be read as referring to the departure by sea out of India of a person whom it is desired to engage under this Chapter.

76. On receiving an application under section 75 the Local Government may, after such inquiry as may be necessary, grant the permission applied for on such terms and conditions (if any) and on payment of such fees (if any) as it thinks fit, or withhold such permission, and the decision of the Local Government shall be final.

77. (1) Before any Native of India departs from India in accordance with permission granted under section 76, the person engaged shall appear before the Protector of Emigrants at the port of embarkation with such Native of India and with any persons intending to accompany him as his dependents.

(2) If it appears to the Protector of Emigrants—

- (a) that permission to engage such Native of India has been duly obtained,
- (b) that the terms of the agreement under which such Native of India has been engaged are in accordance with the terms of the permission granted, and

- (c) that the conditions on which such permission was granted have been complied with,

he shall register in a book to be kept for the purpose such particulars concerning such Native of India and his dependents (if any) and concerning the person engaging him in such form as the Governor General in Council, by rules made under this Act, prescribes.

78. Where such security as is referred to in Provisions as to as to section 75, sub-section (1), sub-clause (vi), has been furnished, the Local Government may, after such inquiry as may be necessary, pass orders in regard to the forfeiture of the security and the application of the same or of any part thereof, or may order the return of the security or of any part thereof to the person by whom it was furnished, or to his representative.

79. The Local Government may, by notification in the local official Gazette, authorize a Protector of Emigrants to receive or dispose of applications made under this Chapter:

Provided that an appeal shall lie to the Local Government from every order passed by a Protector of Emigrants in exercise of the authority so conferred.

80. For the purposes of the application of this Chapter at any port notified under clause (i) of which emigration is not lawful, the explanation to section 75—

- (a) such port shall be deemed to be a port from which emigration is lawful, and
- (b) such officer as the Local Government may appoint in this behalf shall be deemed to be the Protector of Emigrants.

CHAPTER XII.**RULES.**

81. (1) The Governor General in Council may, by notification in the Gazette of India, make rules consistent with this Act—

- (a) to prescribe the person by whom any doubt or dispute referred to in sub-section (2) of section 2 shall be determined and the procedure to be followed and the proof to be required in such cases;
- (b) to provide for the supervision and regulation of places of accommodation provided under this Act, and to define the classes of Magistrates and the officers of Police to be authorized to visit and inspect those places;
- (c) to prescribe the form of the register required under this Act, and the particulars to be entered therein, and to regulate the control to be exercised over Registering Officers by the District Magistrate or officer (if any) appointed in this behalf under this Act;

The Indian Emigration Act, 1908.
(Chapter XII.—Rules. Chapter XIII.—Offences.)

- (d) to prescribe the forms of the agreements to be made under this Act, and the particulars to be contained therein, and the language or languages in which agreements must be expressed;
 - (e) to prescribe the conditions on which licenses for the establishment of depots under this Act may be given, to provide for the supervision and regulation of depots, and for the medical care of the emigrants during their residence there; and the measures to be taken on the outbreak of any epidemic or infectious disease there;
 - (f) to prescribe the forms to be supplied by Emigration Agents and recruiters for the purposes of this Act;
 - (g) to prescribe the particulars which the owner or master of a vessel applying for a license to carry emigrants in his vessel must state;
 - (h) to regulate the proportion of women to be ordinarily carried in any emigrant-vessel with male emigrants, and to prescribe the arrangement to be made for the separation of women (married or single) and children from the other emigrants on board an emigrant-vessel;
 - (i) to prescribe the description, quantity and quality of provisions, fuel and water to be taken by emigrant-vessels, the daily allowance of food and water to be issued, and the nature and amount of clothing to be supplied to each emigrant during the voyage;
 - (j) to fix the number of the compounders, interpreters and attendants subordinate to the surgeon to be carried for the care of the sick or weakly on board each emigrant-vessel;
 - (k) to prescribe the nature, quantity and quality of medicines and other stores to be carried on board emigrant-vessels;
 - (l) to provide for the ventilation and cleanliness of every emigrant-vessel during a voyage, and for its being furnished with a sufficient number of life-buoys, boats, water-buckets and other appliances to be used in case of shipwreck or fire;
 - (m) to prescribe the seasons at which alone emigrant-vessels or specified classes of emigrant-vessels may sail from any port in British India to any country west of the Cape of Good Hope to which emigration is for the time being lawful;
 - (n) to provide for the disposal of emigrants who may be landed under section 74;
 - (o) to provide for the medical care of the emigrants on the voyage, and to provide for the measures to be taken on the outbreak of any epidemic or infectious disease on a voyage;
 - (p) to provide for a journal being kept by the surgeon of every emigrant-vessel, recording the health of the emigrants, and his treatment of the sick, with full explanation of the causes of every death; and to define the duties and powers of the surgeon in respect of the emigrants committed to his care;
 - (q) to define and regulate the powers and duties of the several officers appointed by the Government under this Act;
 - (r) generally to provide for the security, well-being and protection of emigrants; and
 - (s) to carry into effect the provisions of Chapter XI:
- Provided that the Local Government may, in special cases, notwithstanding anything contained in rules made under clause (h) of this section, permit an emigrant-vessel to sail, though it does not carry the proportion of women required to be carried in ordinary cases.
- (2) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.
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- ### CHAPTER XIII.
- #### OFFENCES.
- 82. (1)** Whoever, except in conformity with the provisions of this Act
 Unlawful recruiting. or of the rules made under this Act,—
- (a) makes, or attempts to make, any agreement with any Native of India, purporting to bind him to emigrate, or
 - (b) in consideration of any hire or reward, induces, or attempts to induce, any Native of India to leave any place for the purpose of emigrating, or otherwise acts or is employed as a recruiter of emigrants, or
 - (c) in consideration of any hire or reward, receives into or detains in any place, or, being a recruiter, in any place other than a place in which accommodation has been provided in accordance with this Act or the rules made under this Act, any person with a view to his being registered as an emigrant, or after his registration as an emigrant and before his departure for the depot at the port of embarkation,
- shall be punishable with fine which may extend to five hundred rupees.
- (2) If any person, other than a recruiter licensed under this Act, commits an offence under this section, any police-officer may arrest him without warrant.
- 83. Whoever, being a recruiter licensed under this Act, removes unregistered emigrants to depot.**

The Indian Emigration Act, 1908.

(Chapter XIII.—Offences.)

- (a) before any intending emigrant has been registered under this Act as an emigrant,—
 (i) removes or attempts to remove him to a depot, or
 (ii) induces, or attempts to induce, him to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned, or
 (iii) aids, or attempts to aid, him in leaving any such local limits or going to any depot, or
- (b) fails to give a true copy of the statement with which he is provided under section 22 to any person whom he invites to emigrate, or
- (c) fails to provide any emigrant whom he has engaged, and who has been registered at a place beyond the limits of the port of embarkation, with suitable lodging and food, or otherwise ill-treats any emigrant on his journey to the depot,

shall be punishable with fine which may extend to five hundred rupees.

84. Whoever, by means of intoxication, Fraudulently inducing coercion or fraud, causes Native to emigrate. or induces, or attempts to cause or induce, any Native of India to emigrate, or to enter into any agreement to emigrate or to leave any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

False representation of Government authority

85. Whoever,—

- (a) without lawful authority, issues any written order to the Police to assist himself or any other person to procure emigrants, or
 (b) falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Receiving emigrants on board vessel in contravention of Act.

- (a) knowingly receives on board his vessel any emigrant who has not complied with the provisions of this Act or the rules made under this Act, so far as they are binding on him, or,
 (b) not being licensed under this Act, knowingly receives any emigrant on board his vessel, or,
 (c) being licensed under this Act, knowingly receives on board his vessel any emigrant in excess of the number specified in his license,

shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees for each emigrant so received, or with both; and the vessel, her tackle, apparel and furniture, may be declared by the Court before which the master is tried to be forfeited to His Majesty.

87. Any master licensed under this Act who *Fraudulent acts on* **does, or part of master.** *suffers to be done, any act or thing whereby the license becomes inapplicable to the altered state of the vessel or other matter to which the license relates, shall be punishable with fine which may extend to five thousand rupees,*

and he may also be sued on any bond which he may have executed under section 58.

88. Any master of an emigrant-vessel who clears, Clearance without or attempts to clear, his vessel outwards when any of the provisions of section 53, 55 or 56 have not been complied with in respect of his vessel, shall be punishable with fine which may extend to four thousand rupees.

89. Any master who receives on board his vessel *Failure of master to* **any emigrants and fails to comply with provisions to comply with the requirements of sections 62, 63 and 64 in respect of those emigrants, shall be punishable with fine which may extend to two hundred rupees for each emigrant so received on board.**

90. Any master who, having cleared his vessel, *Master taking on* **takes on board any emigrants after clearance, grant not entered in the emigrants not entered in list mentioned in section 62 list. *or not furnished with a pass required by that section, shall be punishable with fine which may extend to two hundred rupees for each emigrant so taken.***

91. Any master who lands any emigrant in any country other than the grant or other than country for which he has specified country. *Master landing any* **been shipped by the Emigration Agent, shall be punishable for every emigrant so landed with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both, unless the landing has been caused by stress of weather or unavoidable accident, or has taken place under the provisions of section 73 or 74.**

92. Any master of a sailing-vessel leaving *Failure to comply* **the port of Calcutta with provisions as to emigrants on board who—leaving Calcutta.**

- (a) does not leave Garden Reach with his vessel within the time prescribed in section 71, or,
 (b) without reasonable excuse, causes or allows his vessel to go below Garden Reach without being in tow of such a steamer as is referred to in section 72, shall be punishable with fine which may extend to one thousand rupees.

*The Indian Emigration Act, 1908.**(Chapter XIII.—Offences. Chapter XIV.—Supplemental.)*

Emigrant deserting 93. (1) Any emigrant or refusing to proceed who—

- (a) deserts before arrival at depôt, or
- (b) refuses without reasonable cause to proceed to the depôt,

shall be punishable with fine which may extend to twenty rupees, or to the cost incurred in entering into an agreement with, registering and conveying him to the depôt, whichever is greater, and, in default of payment of the fine, with imprisonment which may extend to one month.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

Emigrant deserting 94. (1) Any emigrant from depôt or failing who—

- (a) deserts from the depôt, or
- (b) without reasonable cause, refuses or neglects to embark when called upon to do so by the Emigration Agent,

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or to double the amount of the cost incurred in entering into an agreement with, registering and conveying him to the depôt, and maintaining him therein, or with both.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

95. Any person who causes, or any master causing, or permitting, emigrant in contravention of section 59, shall be punishable with fine which may extend to two hundred rupees for each emigrant so embarked.

Offences against provisions of Chapter XI. 96. Whoever,—

- (a) without having first obtained the permission of the Local Government referred to in section 75, sub-section (1), enters or attempts to enter into an agreement purporting to bind any Native of India to depart by sea out of India for any of the purposes specified in the said sub-section, or
- (b) causes any Native of India engaged by him for any such purpose as aforesaid to depart from any port which is not a port from which emigration is lawful, or which has not been notified under clause (l) of the explanation to section 75, or
- (c) causes any Native of India engaged by him, after grant of the permission referred to in section 76, to depart by sea

out of India without registration of the particulars required by section 77, sub-section (2),

shall, on conviction by a Magistrate of the first class, be punishable with fine which may extend to two hundred and fifty rupees for each Native of India in respect of whom the offence is committed.

97. Prosecutions under sections 86 to 96 both inclusive shall not be instituted except as follows, namely:—

- (a) prosecutions under sections 86 to 94, both inclusive, by the Emigration Agent, or by the Protector of Emigrants, or by an officer appointed for the purpose by the Local Government;
- (b) prosecutions under section 93, by or with the sanction of a Magistrate or Registering Officer or of the Protector of Emigrants at the port of embarkation;
- (c) prosecutions under section 94, by the Emigration Agent with the sanction of the Protector;
- (d) prosecutions under sections 95 and 96, by the Protector of Emigrants or by an officer appointed for the purpose by the Local Government.

98. The following shall be good defences to charges under sections 93 and 94, respectively, namely:—

- (a) to a charge under section 93, that the accused person or other emigrants accompanying him has or have been ill-treated, deceived or defrauded by the recruiter or any person under his control;
- (b) to a charge under section 94, that the emigrant has suffered any ill-treatment or neglect in the depôt or on the journey thither.

99. All the powers for the time being conferred by law on officers of customs with regard to the searching and detention of vessels or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

CHAPTER XIV.**SUPPLEMENTAL.**

100. The Local Government may appoint any person to perform within a specified area the functions of a Magistrate under this Act.

*The Indian Emigration ct, 1908.
(Chapter XIV.—Supplemental.)*

101. (1) Where an Emigration Agent is chargeable with a breach of duty to an emigrant arising from any agreement with the emigrant or imposed by this Act or the rules made under this Act, the Protector of Emigrants may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of compensation for the breach.

(2) In awarding compensation under this section all sums ordered to be paid under section 46 or section 48 shall be taken into consideration.

102. (1) The Governor General in Council may, by notification in the Gazette of India, determine what shall be held to be, for purposes of this Act, the probable length of the voyages by sailing-vessels and vessels using steam power, respectively, from any port from which, to any country to which, emigration is for the time being lawful.

(2) Until otherwise determined under this section, the probable length of the voyage by sailing-vessels from the ports mentioned in the third schedule to the countries mentioned in that schedule, shall be deemed to be the lengths stated in that schedule.

103. On and from such a date as the Governor General in Council may, by notification in the Gazette of India, have fixed or may hereafter, by like notification, fix in this behalf with respect to any protected Native State adjoining the Straits Settlements, or with respect to any country for labour to which Natives of India are recruited exclusively through the agency of the Government of the Straits Settlements, a Native of India departing by sea out of British India under an agreement to labour for hire in any such State or country shall not, so long as the notification continues to apply to the State or country, be deemed to emigrate within the meaning of this Act.

Application of Act to emigration from British parts to French and Dutch Colonies.

104. The provisions of this Act shall apply to emigration from British Indian ports—

- (a) to the French Colonies, under the terms of the Convention executed at Paris on the first day of July 1861, and ratified at the same place on the thirtieth day of July 1861, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French; and
- (b) to the Netherlands colony of Dutch Guiana under the terms of the Convention executed at the Hague on the eighth day of September 1870, and

ratified at the same place on the seventeenth day of February 1872, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the King of the Netherlands:

Provided that emigration to the French colonies, or any of them, shall not be lawful until a notification under section 4, sub-section (1), has been issued in respect thereof; but subject to this proviso, in any case in which there is any conflict between the provisions of this Act and those contained in either of those Conventions, the latter shall prevail.

105. The provisions of this Act shall, so far as they relate to proceedings which are to be conducted in British India connected with emigration from French ports in India to French colonies.

French port in India under an agreement to labour for hire in a French colony, under the Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French referred to in the last foregoing section as if such Natives were emigrants within the meaning of this Act:

Provided that, in any case in which there is any conflict between the provisions of this Act and those contained in that Convention, the latter shall prevail.

106. (1) The departure by land out of British India of a Native of India under, or with a view to entering into, an agreement to labour for hire in some country beyond the sea, other than the Island of Ceylon or the Straits Settlements is prohibited:

Provided that nothing in this section applies to the departure by land of a Native of India for the purpose of departing by sea from a French port in India under an agreement to labour for hire in a French colony in accordance with the Convention referred to in section 104, clause (a), and section 105.

(2) Whoever induces, or attempts to induce, any Native of India to depart by land out of British India in contravention of this section shall be deemed to have committed an offence under section 82.

107. The Governor General in Council may, by notification in the Gazette of India, declare that all or any of the provisions of this Act or the rules thereunder shall not apply, or shall apply subject to such conditions, modifications or restrictions as to the Governor General in Council may seem expedient in the case of Natives of India departing out of British India under an

The Indian Emigration Act, 1908.

(*The Third Schedule.—Probable Lengths of Voyage by Sailing Vessel under this Act. The Fourth Schedule.—Enactments repealed.*)

THE THIRD SCHEDULE.

(See section 102.)

PROBABLE LENGTHS OF VOYAGE BY SAILING VESSEL UNDER THIS ACT.

FROM CALCUTTA—

To Mauritius { From the month of April to the month of October, both inclusive, ten weeks; and from the month of November to the month of March, both inclusive, eight weeks.

To Fiji, British Guiana, Trinidad, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, and Dutch Guiana. } Eighteen weeks.

To Natal Twelve weeks.

To Jamaica and St. Lucia Twenty weeks.

FROM MADRAS—

To Mauritius { From the month of April to the month of October, both inclusive, seven weeks; and from the month of November to the month of March, both inclusive, six weeks.

To the Seychelles { During the north-east monsoon, five weeks; and during the south-west monsoon, six weeks.

To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, and Dutch Guiana. } Nineteen weeks.

To Natal Ten weeks.

To Fiji Seventeen weeks.

FROM BOMBAY—

To Mauritius { From the month of April to the month of September, both inclusive, five weeks; and from the month of October to the month of March, both inclusive, six weeks.

To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, and Dutch Guiana. } Nineteen weeks.

To Natal Ten weeks.

To Fiji Seventeen weeks.

THE FOURTH SCHEDULE.

(See section 110.)

ENACTMENTS REPEALED.

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.
1883	XXI	The Indian Emigration Act, 1883.	So much as has not been repealed.
1890	XVIII	The Indian Emigration Act (1883) Amendment Act, 1890.	The whole.
1895	I	The Indian Emigration Act (1883) Amendment Act, 1895.	Ditto.
1897	VII	The Indian Emigration Act Amendment Act, 1897.	Ditto.
1902	X	The Indian Emigration (Amendment) Act, 1902.	Ditto.
1904	XII	The Indian Emigration (Amendment) Act, 1904.	Ditto.
1908	XII	The Indian Emigration (Amendment) Act, 1908.	Ditto.

J. M. MACPHERSON,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 18th December 1908, and is hereby promulgated for general information :—

ACT NO. XVIII OF 1908.

An Act further to amend the Indian Merchant Shipping Act, 1880.

WHEREAS it is expedient further to amend the Indian Merchant Shipping Act, 1880; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Merchant Shipping (Amendment) Act, 1908; and

(2) Section 4 shall come into force on such date or dates as the Governor General in Council may, by notification in the Gazette of India, direct either generally for all foreign ships or specially for the ships belonging to any specified foreign countries. The rest of this Act shall come into force on the first day of January 1909.

2. (1) In section 3, clause (b), of the Indian Merchant Shipping Act, 1880, after the word "or" the words "to any sailing ship of less than one hundred and fifty tons register employed" shall be inserted.

(2) To the same section the following shall be added, namely :—

The Governor General in Council may, from time to time, by notification in the Gazette of India, exclude from or bring again within the operation of sections 33 to 43, inclusive, any class of steamships of less than one hundred and fifty tons register which are employed in plying coastwise between ports situate in India and Ceylon, and do not carry cargo."

3. In section 4 of the said Act, in the definition of "unsafe", after the word "intended" the following words shall be inserted, namely :—

"and a ship shall be deemed to be unsafe when so loaded as to submerge in perfectly smooth salt water the centre of the disc indicating the load line."

4. For section 85 of the said Act the following substitution of new shall be substituted, namely :—

"85. The provisions of this Act for the pre-

vention of the overloading and improper loading of British ships and for load lines to foreign ships. The marking of deck and load lines on British

Indian and British ships shall, with the exception of sub-sections (2) and (3) of section 35, apply to foreign ships also when in ports of British India, unless such foreign ships, if in ports of the United Kingdom, would be entitled to the benefit of a direction of His Majesty in Council under section 445 of the Merchant Shipping Act, 1880 & 1894: *Vide, c. 60.*

Provided that nothing in this section shall apply to any foreign ship not bound to a port in British India which comes into any port in British India for any purpose other than the purpose of embarking or landing passengers or taking in or discharging cargo or taking in bunker coal ;

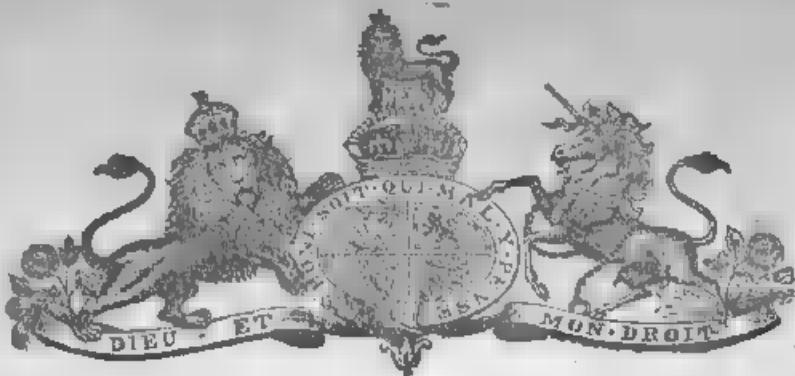
Provided also that in the case of the detention of a foreign ship the application of the provisions of this Act shall be subject to the following modifications, namely :—

(i) a copy of the order for the provisional detention of the ship shall be forthwith served on the consular officer for the country to which the ship belongs at or nearest to the port in which such ship is detained ;

(ii) the consular officer, on the request of the owner or master of the ship, may require that the person appointed by the Local Government under section 8 to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the Local Government shall cause the ship to be detained or released accordingly ; but if they differ, the Local Government may act as if the requisition had not been made, and the owner and master shall have the like appeal to a Court of Survey touching the report of the surveyor as is hereinbefore provided in the case of a British ship ; and

(iii) where the owner or master of the ship appeals to the Court of Survey, the consular officer, on his request, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the Local Government."

J. M. MACPHERSON,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 11, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th July, 1908 :

No. 7 of 1908.

A Bill to amend the Assam Labour and Emigration Act, 1901.

WHEREAS it is expedient to amend the Assam Labour and Emigration Act, 1901; It is hereby enacted as follows:—

1. This Act may be called the Assam Labour and Emigration (Amendment) Act, 1908.

2. For section 91 of the Assam Labour and Emigration Act, 1901, the following shall be substituted, namely:—

"91. Notwithstanding anything contained in section 90, the Local Government may, by notification in the local official Gazette, declare that—

(a) in the case of contractors, sub-contractors and recruiters holding licenses granted under Chapter III, any of the requirements of that Chapter, or,

(b) in the case of garden-sardars holding certificates granted under Chapter IV or holding permits granted and countersigned under section 90, any of the requirements of that Chapter or of that section, as the case may be,

may be dispensed with or relaxed on such conditions as may be prescribed in the notification."

3. For section 218 of the said Act the following shall be substituted, section for section 218, namely:—

"218. The proceeds of any fines, fees and rates under this Act which may be credited to the Government shall be expended, in such manner as the Governor General in Council may direct, on paying the salaries and allowances of officers appointed under this Act and their pensionary and leave allowances, on meeting the cost of sending labourers and other persons back to their native districts, and generally on defraying the expenses of carrying out the purposes and objects of this Act and any rules made thereunder, and not otherwise."

STATEMENT OF OBJECTS AND REASONS.

IN view of the proposed withdrawal from the districts of the Surma Valley and from the districts of Kamrup and Goalpara of the chief provisions of the Assam Labour and Emigration Act, 1901 (VI of 1901), relating to labour-districts, it is desired to amend the procedure prescribed by the Act for the recruitment of labourers, so as to dispense with the taking of contracts in the case of emigrants proceeding to those districts. Provision is at the same time proposed to be made for giving a trial to the system of free recruitment by garden-sardars. With these objects clause 2 of the Bill re-enacts section 91 of

the Act so as to enable Local Governments by notification to dispense with or relax any of the provisions of Chapters III and IV of the Act, subject to any conditions that may be prescribed in the notification. The clause has been made general in order that the new procedure may be applied hereafter, if considered expedient, to other labour-districts besides those referred to above.

2. Clause 3 of the Bill is intended to permit of the fees and fines realized under the Act being dealt with in the provincial accounts. The amendment of section 218 which it is proposed to make will admit of the deficits of one province being met from the surplus in another province, and, as the expenditure of the receipts is restricted to the purposes specified, it will enable Government to apply any surplus which may accrue after these purposes have been carried out towards the reduction of annual rate or the registration fees.

W. L. HARVEY.

The 2nd June 1908.

J. M. MACPHERSON,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th July, 1908 :

No. I of 1908.

A Bill further to amend the Indian Emigration Act, 1883.

XI of 1883. WHEREAS it is expedient further to amend the Indian Emigration Act, 1883 ; It is hereby enacted as follows :

1. This Act may be called the Indian Emigration (Amendment) Act, 1908.
Short title.

XII of 1883. 2. In the Indian Emigration Act, 1883, the word "India" wherever it occurs, shall bear the meaning given to it by clause (27) of section 3 of the General Clauses Act, 1897.

XI of 1883. 3. In section 6 of the Indian Emigration Act, 1883, the proviso to section 6 of Act XXI of 1883, clause (2) shall be omitted.

4. After section 6 of the said Act the following section shall be inserted, namely :

"6A. In case of any doubt or dispute as to Determination of certain whether a person should be deemed—

- (i) to emigrate, or
- (ii) to be a native of India,

within the meaning of this Act, the question shall be determined by such person and in such manner as the Governor General in Council may from time to time, by rules made under this Act, direct, and such determination shall be final."

Amendment of section 5. In section 18, sub-section (1) of Act XXI of 1883, section (1), of the said Act :

- (a) for the words "a Medical Inspector" the words "one or more Medical Inspectors" shall be substituted ;
- (b) after the word "lawful" the words "and may apportion their respective duties" shall be inserted ; and
- (c) for the word "him" the word "them" shall be substituted.

6. In section 80, sub-section (1), the word "and" where it last occurs in clause (p), shall be omitted, and after the said clause the following shall be inserted, namely :

- "(pp) to prescribe the person by whom any doubt or dispute referred to in section 6A shall be determined and the procedure to be followed and the proof to be required in such cases ; and".

STATEMENT OF OBJECTS AND REASONS.

ATTENTION was recently drawn to a case in which certain Portuguese native subjects of Damaun were refused permission to embark from the port of Bombay under engagement to work in Lourenço Marques, to which country emigration is not lawful under section 8 (1) of the Indian Emigration Act, 1883. The refusal was based on the ground that the term "native of India" in the Act included native subjects of foreign settlements. It is considered desirable to remedy the anomalous state of the law under which subjects of a friendly Power may be subjected to vexatious restrictions under the terms of an Act designed for the protection of British Indian subjects. With this object clause 2 of the Bill defines the term "India" so as to exclude from its meaning all foreign settlements in that country. The clause will permit of the embarkation of native subjects of foreign Powers from British Indian ports under circumstances such as those in the case referred to. It will also enable them, notwithstanding anything in section 105 of the Act, to depart

by land out of British India for the purpose of entering into an agreement to labour for hire in any country beyond the sea. Clauses 4 and 6 of the Bill are enacted with a view to a provision being made by rule against possible evasions of the Act by British Indians under pretence of being foreign subjects. Clause 3 is a necessary complement of clause 4.

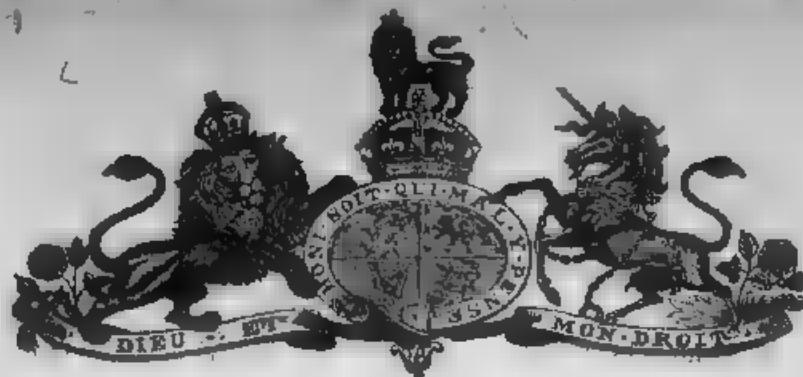
2. It is further proposed to take this opportunity to amend section 18 of the Act so as to enable Local Governments to appoint one or more Medical Inspectors. The existing provision which permits the appointment of only one Inspector has been found defective in that it does not take into account the possibility of the Inspector being unavoidably absent at the time when medical examination of emigrants has to take place. Clause 5 of the Bill effects this object.

The 7th July 1908.

W. L. HARVEY.

J. M. MACPHERSON,

Secretary to the Government of India.



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PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 28.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 7th August, 1908:

NO. 9 OF 1908.

THE INDIAN PORTS BILL.

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THE FIRST SCHEDULE.—PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.**THE SECOND SCHEDULE.—ENACTMENTS REPEALED.**

The Indian Ports Bill.

(Chapter I.—Preliminary. Chapter II.—Powers of the Local Government.)

A Bill to consolidate the Enactments relating to Ports and Port-charges.

WHEREAS it is expedient to consolidate the enactments relating to ports and port-charges; It is hereby enacted as follows:—

CHAPTER I.**PRELIMINARY.**

1. (1) This Act may be called the Indian Ports Act, 1908.

(2) It shall extend, save as otherwise appears from its subject or context,—

(a) to the ports mentioned in the first schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act XXII of 1855 (for the Regulation of Ports and Port-dues) or to the Indian Ports Act, 1875, or to the Indian Ports Act, 1889;

(b) to the other ports or parts of navigable rivers or channels to which the Local Government, in exercise of the power hereinafter conferred, extends this Act.

(3) But nothing in section 31 or section 32 shall apply to any port, river or channel to which the section has not been specially extended by the Local Government.

2. Nothing in this Act shall—

(i) apply to any vessel belonging to, or in the service of, His Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State, or

(ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided, or

(iii) affect any law or rule relating to the customs or any order or direction lawfully made or given pursuant thereto.

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Magistrate" means a person exercising powers under the Code of Criminal Procedure, 1898, not less than those of a Magistrate of the second class, and includes, in the towns of Calcutta, Madras and Bombay, a Presidency Magistrate:

(2) "master," when used in relation to any vessel, means, subject to the provisions of any other enactment for the time being in force, any person (except a pilot or harbour-master) having for the time being the charge or control of the vessel;

(3) "pilot" means a person for the time being authorized by the Local Government to pilot vessels;

(4) "port" includes also any part of a river or channel in which this Act is for the time being in force;

(5) "port-officer" is synonymous with master-attendant;

(6) "ton" means a ton as determined or determinable by the rules for the time being in force for regulating the measurement of the net tonnage of British ships: and

(7) "vessel" includes anything made for the conveyance by water of human beings or of property.

CHAPTER II.**POWERS OF THE LOCAL GOVERNMENT.**

4. (1) With the previous sanction of the Governor General in Council, the Local Government may, by notification in the local official Gazette,—

(a) extend this Act to any port in which this Act is not in force or to any part of any navigable river or channel which leads to a port and in which this Act is not in force;

(b) specially extend the provisions of section 31 or section 32 to any port to which they have not been so extended;

(c) withdraw this Act or section 31 or section 32 from any port or any part thereof in which it is for the time being in force.

(2) A notification under clause (a) or clause (b) of sub-section (1) shall define the limits of the area to which it refers.

(3) Limits defined under sub-section (2) may include any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance or good government of the port and its approaches, whether within or without high-water-mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water-mark.

(4) In sub-section (3) the expression "high-water-mark" means the highest point reached by ordinary spring tides at any season of the year.

5. (1) The Local Government may, with the previous sanction of the Governor General in Council and subject to any rights of private property, alter the limits of any port in which this Act is in force.

(2) When the Local Government alters the limits of a port under sub-section (1), it shall declare or describe, by notification in the local official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

6. (1) The Local Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for any of the following purposes, namely:—

(a) for regulating the time and hours at and during which, the speed at which,

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- and the manner and conditions in and on which, vessels generally or vessels of any class defined in the rules, may enter, leave or be moyed in any port subject to this Act;
- (b) for regulating the berths, stations and anchorages to be occupied by vessels in any such port;
- (c) for striking the yards and top-masts, and for rigging-in the booms and yards, of vessels in any such port, and for swinging or taking-in davits, boats and other things projecting from such vessels;
- (d) for the removal or proper hanging or placing of anchors, spars and other things being in or attached to vessels in any such port;
- (e) for regulating vessels whilst taking-in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged;
- (f) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharves, quays, docks, moorings and other works in or adjoining to the same, and for marking out the spaces so to be kept free;
- (g) for regulating the anchoring, fastening, mooring and unmooring of vessels in any such port;
- (h) for regulating the moving and warping of all vessels within any such port and the use of warps thereia;
- (i) for regulating the use of the mooring buoys, chains and other moorings in any such port;
- (j) for fixing the rates to be paid for the use of such moorings when belonging to the Government, or of any boat, hawser or other thing belonging to the Government;
- (k) for licensing and regulating catamarans plying for hire, and flats and cargo, passenger and other boats plying, whether for hire or not, and whether regularly or only occasionally, in or partly within and partly without any such port, and for determining the quantity of cargo or number of passengers to be carried by any such vessels;
- (l) for regulating the use of fires and lights within any such port;
- (m) for enforcing and regulating the use of signals or signal-lights by vessels by day or by night in any such port;
- (n) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port;
- (o) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels, in any such port;
- (p) with the previous sanction of the Governor General in Council, for the establishment and regulation of places to be used as sanitaria for the segregation or as hospitals for the treatment of persons who are or have recently been suffering from any dangerous infectious or contagious disease, and for regulating the action, including the disposal of dead bodies, to be taken—
- (i) where a vessel on which there is any case of dangerous infectious or contagious disease common in India, enters or is in any such port;
 - (ii) where a vessel on which there is any case of dangerous infectious or contagious disease uncommon in India, enters or is in any such port;
 - (iii) where a vessel on which there has been any case of dangerous infectious or contagious disease or any death within twelve days previous to the arrival of the vessel at such port, enters or is in any such port;
 - (iv) where a vessel enters any such port from a port in which, or in the neighbourhood of which, there is believed to be, or to have been at the time when the vessel left such port, any dangerous infectious or contagious disease uncommon in India;
 - (v) where a vessel enters any such port having on board any person transhipped from a vessel coming from a port in which or in the neighbourhood of which there is believed to be or to have been at the time when such last-mentioned vessel left such last-mentioned port any dangerous infectious or contagious disease uncommon in India;
 - (vi) where there is a dead body on board a vessel in any such port;
 - (vii) where there are on board a vessel in any such port food-stuffs which, owing to decomposition or for any other reason, are, in the opinion of the health-officer, unfit for human consumption; or
 - (viii) where a vessel leaves any such port while there is in

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the port or in its neighbourhood any dangerous infectious or contagious disease uncommon in India;

For the purposes of this clause only such diseases shall be deemed to be dangerous infectious or contagious diseases, or diseases common or uncommon in India, as the Governor General in Council may by order direct; and

(q) for securing the protection from heat of the officers and crew of vessels in any such port by requiring the owner or master of any such vessel—

(i) to provide curtains and double awnings for screening from the sun's rays such portions of the deck as are occupied by, or are situated immediately above, the quarters of the officers and crew;

(ii) to erect windsails so far as the existing portholes or apertures in the deck admit of their being used for ventilating the quarters of the officers and crew;

(iii) when the deck is made of iron and not wood-sheathed, to cover with wooden planks or other suitable non-conducting material such portions of the deck as are situated immediately above the quarters of the officers and crew;

(iv) when the quarters used by the crew and the galley are separated by an iron bulkhead only, to furnish a temporary screen of some suitable non-conducting material between such quarters and the galley.

(s) The power to make rules under sub-section (7) is subject to the condition of the rules being made after previous publication:

Provided that nothing in this sub-section

shall be construed to affect the validity of any rule in force immediately before the commence-

X of 1889. ment of the *Indian Ports Act, 1889*, and continued by section 2, sub-section (2), of that Act.

[Act III of 1901, s. 27(2).] (t) If any person disobeys any rule made under clause (p) of sub-section (7), he shall be punishable for every such offence with fine which may extend to one thousand rupees.

(u) If a master fails wholly or in part to do any act prescribed by any rule made under clause (p) of sub-section (7), the health-officer shall cause such act to be done, and the reasonable expenses incurred in doing such act shall be recoverable by him from such master.

CHAPTER III.**PORT-OFFICIALS AND THEIR POWERS AND DUTIES.**

7. (r) The Local Government shall appoint some officer or body of persons to be conservator of every port subject to this Act.

(s) Subject to any direction by the Local Government to the contrary,—

(a) in ports where there is a port-officer, the port-officer shall be the conservator;

(b) in ports where there is no port-officer, but where there is a harbour-master, the harbour-master shall be the conservator.

(c) Where the harbour-master is not conservator, the harbour-master and his assistants shall be subordinate to, and subject to the control of, the conservator.

(d) The conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

8. (r) The conservator of any port subject

Power of conservator to give directions. to this Act may, with notice and enforce directions respect to any vessel for certain specified purposes, within the port, give directions for carrying into effect any rule for the time being in force therein under section 6.

(s) If any person wilfully and without lawful excuse refuses or neglects to obey any lawful direction of the conservator, after notice thereof has been given to him, he shall, for every such offence, be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence with a further fine which may extend to one hundred rupees for every day during which, after such notice aforesaid, he is proved to have wilfully and without lawful excuse continued to disobey the direction.

(t) In case of such refusal or neglect, the conservator may do, or cause to be done, all acts necessary for the purpose of carrying the direction into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey the direction.

9. The conservator of any such port may, in case of urgent necessity, cut, or cause to be cut,

Power to cut warps and ropes. any warp, rope, cable or hawser endangering the safety of any vessel in the port or at or near to the entrance thereof.

10. (r) The conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any

part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port and is not private property.

(s) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punishable with fine which may extend to one hundred rupees.

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(3) The conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

11. If the owner of any such timber, raft or Recovery of expenses of other thing, or the person who has caused any removal. such obstruction, impediment or public nuisance as is mentioned in the last foregoing section, neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in the local official Gazette or in such other manner as the Local Government by general or special order directs, the conservator may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction;

and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same;

and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Local Government directs;

and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of sale, by a further sale of so much of the thing or materials as may remain unsold.

12. (1) If any obstruction or impediment to Removal of lawful ob. the navigation of any striction. port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the conservator shall report the same for the information of the Local Government, and shall, with the sanction of that Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

(2) Any dispute arising concerning such compensation shall be determined according to the law relating to like disputes in the case of land required for public purposes.

13. (1) If any vessel hooks or gets foul of any Fouling of Government of the buoys or moorings laid down by or by the authority of the Local Government in any such port, the master of such vessel shall not, nor shall any other person, except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the conservator;

and the conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel;

and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same.

(2) Any master or other person offending against the provisions of this section shall, for every such offence, be punishable with fine which may extend to one hundred rupees.

14. (1) If any vessel is wrecked, stranded or raised or removal of suuk in any such port so wreck impeding navigation as to impede, or be likely within limits of port. to impede, the navigation thereof, the conservator may cause the vessel to be raised, removed or destroyed.

(2) If any property recovered by a conservator acting under sub-section (1) is unclaimed, or the person claiming it fails to pay the reasonable expenses incurred by the conservator under that sub-section and a further sum of twenty per cent. of the amount of such expenses, the conservator may sell the property by public auction, if the property is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than six months after the recovery thereof.

(3) The expenses and further sum aforesaid shall be payable to the conservator out of the sale-proceeds of the property, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto:

Provided that the person makes his claim within three years from the date of the sale.

15. (1) The conservator or any of his assistants Power to board vessels. may, whenever he and enter buildings. suspects that any offence against this Act has been, or is about to be, committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

and the person appointed under this Act to receive any port-dues, fees or other charges payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

(2) If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punishable with fine which may extend to two hundred rupees.

16. (1) For the purpose of preventing or extinguishing fire in any port subject to this Act, the conservator or port-officer may require the master of any vessel within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

(2) Any master refusing or neglecting to comply with such requisition shall be punishable with fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed by the master to obey the orders of the conservator or port-officer for the purpose aforesaid, refuses to obey such orders, shall be punishable with fine which may extend to twenty-five rupees.

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17. (1) The Local Government may appoint at any port subject to this Act an officer to be called the health-officer.

(2) A health-officer shall, subject to the control of the Local Government, have the following powers, within the limits of the port for which he is appointed, namely :—

- (a) with respect to any vessel, the powers conferred on a shipping-master by the Indian Merchant Shipping Act, 1859, section 11;
- (b) power to enter on board any vessel and medically examine all or any of the seamen or apprentices on board the vessel;
- (c) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the vessel;
- (d) power to call before him and question for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask;
- (e) power to require any person so questioned to make and subscribe a declaration of the truth of the statements made by him.

18. The Government shall not be responsible for any act or default of any conservator, port-official or pilot of any port subject to this Act, or of any deputy or assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the vessel:

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of the Government.

CHAPTER IV.**RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.***General Rules.*

19. (1) No person shall, without lawful excuse, injure, loose, lift, injure, loosen and moorings, or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority of, the Local Government in any port subject to this Act.

(2) If any person offends against the provisions of this section, he shall for every such offence be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

20. If any person wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punishable with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months.

21. (1) No ballast or rubbish, and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such port or into or upon any place on shore from which the same is liable to be washed into any such port, either by ordinary or high tides, or by storms or land-floods.

(2) Any person who by himself or another so casts or throws any ballast or rubbish or any such other thing, and the master of any vessel from which the same is so cast or thrown, shall be punishable with fine which may extend to five hundred rupees, and shall pay any reasonable expenses which may be incurred in removing the same.

(3) If, after receiving notice from the conservator of the port to desist from so casting or throwing any ballast or rubbish or such other thing, any master continues so to cast or throw it, he shall also be liable to simple imprisonment for a term which may extend to two months.

(4) Nothing in this section applies to any case in which the ballast or rubbish or such other thing is cast or thrown into any such port with the consent in writing of the conservator, or within any limits within which such act may be authorized by the Local Government.

22. If any person graves, breams or smokes any vessel in any such port, contrary to the directions of the conservator, or at any time or within any limits at or within which such act is prohibited by the Local Government, he and the master of the vessel shall for every such offence be punishable with fine which may extend to five hundred rupees each.

23. If any person boils or heats any pitch, tar, resin, dammer, turpentine, oil or other such combustible matter on board any vessel within any such port, or at any place within its limits where such act is prohibited by the Local Government, or contrary to the directions of the conservator, he and the master of the vessel shall for every such offence be punishable with fine which may extend to two hundred rupees each.

24. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, he and the master of the vessel shall for every such offence be punishable with fine which may extend to two hundred rupees each.

25. (1) Every master of a vessel in any port subject to this Act shall, when required so to do by the conservator, permit warps or

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hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

(2) A master offending against sub-section (1) shall be punishable for every such offence with fine which may extend to two hundred rupees.

26. (1) A master of a vessel shall not cause leaving out warp or hawser attached to his vessel to be left out in any port subject to this Act after sunset in such a manner as to endanger the safety of any other vessel navigating in the port.

(2) A master offending against sub-section (1) shall be punishable for every such offence with fine which may extend to two hundred rupees.

27. If any person, without lawful excuse, discharges fire-arms in any port subject to this Act, or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, he shall for every such offence be punishable with fine which may extend to fifty rupees.

28. If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to

extinguish the fire or obstructs the conservator or the port-officer, or any person acting under the authority of the conservator or port-officer, in extinguishing or attempting to extinguish the fire, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

29. (1) No person, without the permission of the conservator, shall, in any port subject to this Act, creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

(2) If any person offends against the provisions of sub-section (1), he shall be punishable with fine which may extend to one hundred rupees.

30. (1) No person without the permission of the conservator shall, in any port subject to this Act remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port;

and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the conservator, and with the aid or under the inspection of such person, if any, as the conservator may appoint to take part in or overlook the performance of such work.

(2) If any person offends against sub-section (1), he shall for every such offence be punishable with fine which may extend to one hundred

rupees and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.

Special Rules.

31. (1) No vessel of the measurement of moving of vessels without two hundred tons or pilot or permission of upwards shall enter, harbour-master leave or be moved in any port to which this section has been specially extended without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board;

and no vessel of any measurement less than two hundred tons and exceeding one hundred tons shall enter, leave or be moved in any such port without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board, unless authority in writing so to do has been obtained from the conservator or some officer empowered by him to give such authority.

(2) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (1), the master of the vessel shall for every such offence be punishable with fine which may extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a pilot, harbour-master or assistant of the port-officer or harbour-master to go on board the vessel.

(3) Nothing in sub-sections (1) and (2) shall apply to native vessels when they are entering, leaving or being moved in the port of Bombay.

(4) If any question arises as to whether any vessel is a native vessel within the meaning of this section, the decision thereon of such authority as the Governor of Bombay in Council may appoint in this behalf shall be conclusive.

32. (1) Every vessel exceeding the measurement of two hundred tons and lying in any port to which this section has been specially extended shall be provided with a proper force-pump and hose and appurtenances, for the purpose of extinguishing any fire which may occur on board.

(2) The master of such a vessel who, having been required by the conservator to comply with the provisions of sub-section (1), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punishable with fine which may extend to five hundred rupees.

CHAPTER V.**PORT-DUES, FEES AND OTHER CHARGES.**

33. (1) In each of the ports mentioned in the first schedule such port-levy of port-dues, not exceeding the amount specified for the port in the third column of the schedule as the Local Government directs, shall be levied on vessels entering the port and described in the second column of the schedule, but not oftener than the time fixed for the port in the fourth column of the schedule.

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(1) Whenever the Local Government, with the previous sanction of the Governor General in Council, declares any other port to be subject to this Act, it may, with the like sanction, by the same or any subsequent declaration, further declare,—

- (a) in the terms of any of the entries in the second column of the first schedule, the vessels which are to be chargeable with port-dues on entering the port;
- (b) the highest rates at which such dues may be levied in respect of vessels chargeable therewith, and
- (c) the times at which such vessels are to be so chargeable.

(2) All port-dues now leviable in any port shall continue to be so leviable until it is otherwise declared in exercise of the powers conferred by this section.

(3) An order increasing or imposing port-dues under this section shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

34. The Local Government may exempt the variation of port-dues by vessels entering a port Local Government, subject to this Act from payment of port-dues and cancel the exemption, or may vary the rates at which port-dues are to be levied in the port, in such manner as, having regard to the receipts and charges on account of the port, it thinks expedient, by reducing or raising the dues, or any of them:

Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act.

35. (1) Within any port subject to this Act, fees for pilotage and fees may be charged for certain other services—pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the Local Government may direct:

Provided that, in the case of fees for pilotage, the previous sanction of the Governor General in Council has been obtained.

(2) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by sub-section (1).

36. (1) The Local Government shall appoint Receipt, expenditure and some officer or body of account of port-charges. persons at every port at which any dues, fees or other charges are authorized to be taken by or under this Act to receive the same and, subject to the control of the Local Government, to expend the receipts on any of the objects authorized by this Act.

(2) Such officer or body shall keep for the port a distinct account, to be called the port fund account, showing, in such detail as the Local Government prescribes, the receipts and expenditure of the port, and shall publish annually as soon after the first day of April as may be practicable an abstract, in such form as that Government prescribes, of the account for the past financial year.

(3) If, for any of the purposes of this Act, an advance of money has been or shall be made

by the Government on account of any port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor General in Council may determine, shall be charged in the port fund account of the port.

(4) All moneys received under this Act at or on account of any port subject to this Act, excluding receipts on account of pilotage but including—

- (a) fines,
- (b) proceeds of waifs, and
- (c) any balance of the proceeds of a sale under section 14 where no right to the balance has been established on a claim made within three years from the date of the sale,

shall be credited in the port fund account of the port.

(5) All expenses incurred for the sake of any such port, excluding expenses on account of pilotage but including—

- (a) the pay and allowances of all persons upon the establishment of the port,
- (b) the cost of buoys, beacons, lights and all other works maintained chiefly for the benefit of vessels being in or entering or leaving the port or passing through the rivers or channels leading thereto,
- (c) pensions, allowances and gratuities of persons who have been employed in the port under this or any other enactment relating to ports and port-dues, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine,

(6) with the previous sanction of the Local Government, contributions towards the support of public hospitals or dispensaries suitable for the reception or relief of seamen or otherwise towards the provision of sanitary superintendence and medical aid for the shipping in the port and for seamen, whether ashore or afloat, belonging to vessels in the port, and

(7) with the like sanction, contributions towards sailors' homes, institutes, rest-houses and coffee-houses and for other purposes connected with the health, recreation and temporal well-being of sailors,

shall be charged to the port fund account of the port.

(8) Subject to the provisions of any local law as to the disposal of any balance from time to time standing to the credit of a port fund account, any such balance may be temporarily invested in such manner as the Local Government may direct.

37. (1) The Local Government may direct Grouping of ports. that for the purposes of the last foregoing section any number of ports shall be regarded as constituting a single port, and thereupon all moneys to be credited to the port fund account under

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sub-section (4) of that section shall form a common port fund account which shall be available for the payment of all expenses incurred for the sake of any of the ports:

Provided, with respect to the ports of Calcutta, Madras, Bombay, Rangoon, Karachi, Chittagong and Aden, that none of those ports may be grouped with any other port, and that the port fund account of each of those ports shall be kept separate from the port fund account of any other port.

(a) Where ports are grouped by or under this Act, the following consequences ensue, namely:—

(a) the Local Government, in the exercise of its control over expenditure debitable to the common port fund account of the group, may, with the previous sanction of the Governor General in Council, make rules with respect to the expenditure of the fund for the sake of the several ports of the group on the objects authorized by this Act, and shall cause effect to be given to any directions which the Governor General in Council may deem it necessary to issue with respect to such expenditure; and

(b) the Local Government may exercise its authority under section 34 as regards all the ports in the group collectively or as regards any of them separately.

38. The person to whom any dues, fees or receipts for port-other charges authorized charges to be taken by or under this Act are paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the dues, fees or other charges are paid, and the name, tonnage and other proper description of the vessel in respect of which the payment is made.

39. (1) Within twenty-four hours after the arrival within the limits of any port subject to this Master to report at Act of any vessel liable to the payment of port-dues under this Act, the master of the vessel shall report her arrival to the conservator of the port.

(2) A master failing without lawful excuse to make such report within the time aforesaid shall for every such offence be punishable with fine which may extend to one hundred rupees.

(3) Nothing in this section applies to tug-steamer, ferry-steamer or river steamer plying to and from any of the ports subject to this Act or to ballam boats plying to and from the port of Chittagong.

40. If any vessel liable to the payment of port

dues is in any such port without proper marks on the stem and stern posts thereof for denoting her draught, the conservator

may cause the same to be ascertained by means of the operation of locking, and the master of the vessel shall be liable to pay the expenses of the operation.

41. In order to ascertain the tonnage of any vessel liable to pay port-dues the following rules shall be observed, namely:—

(1) (a) If the vessel is a British registered vessel or a vessel registered under the Indian Registration of Ships Act, 1841, X of 1841, or the Indian Registration of Ships Act (1841) Amendment Act, 1850, or under XI of 1850,

any other law for the time being in force for the registration of vessels in British India, the conservator may require the owner or master of the vessel or any person having possession of her register to produce the register for inspection.

(b) If the owner or master or such person neglects or refuses to produce the register or otherwise to satisfy the conservator as to what is the true tonnage of the vessel in respect of which the port-dues are payable, he shall be punishable with fine which may extend to one hundred rupees, and the conservator may cause the vessel to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, and in such case the owner or master of the vessel shall also be liable to pay the expenses of the measurement.

(2) If the vessel is not a British registered vessel or a vessel registered under the Indian Registration of Ships Act, X of 1841, or the Indian Registration of Ships Act (1841) Amendment Act, 1850, XI of 1850 or under any other law for the time being in force for the registration of vessels in British India, and the owner or master thereof fails to satisfy the conservator as to what is her true tonnage according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, the conservator shall cause the vessel to be measured and the tonnage thereof to be ascertained, according to the mode aforesaid, and in such case the owner or master of the vessel shall be liable to pay the expenses of the measurement.

(3) If the vessel is a vessel of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (1) and (2), the tonnage of the vessel shall be determined by the conservator on such an estimate as may seem to him to be just.

42. If the master of any vessel in respect of which any port-dues, fees or other charges are payable under this Act, refuses or neglects to pay the same on demand, the authority appointed to receive such port-dues, fees or other charges may detain or arrest the vessel, and the tackle, apparel

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(Chapter V.—Port-dues, Fees and other Charges.)

and furniture belonging thereto or any part thereof, and detain the same until the amount due is paid;

and in case any part of the port-dues, fees or other charges or of the costs of the distress or arrest or of the keeping of the vessel or other thing distrained or arrested, remains unpaid for the space of five days next after any such distress or arrest, may cause the vessel or other thing distrained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, fees or other charges and the costs including the costs of sale remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand.

43. The officer of Government whose duty

No port-clearance to be granted until port-charges are paid.

It is to grant a port-clearance for any vessel shall not grant such clearance—

(a) until her owner or master, or some other person, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and other charges, and of all fines, penalties and expenses to which the vessel or her owner or master is liable under this Act;

(b) until all expenses, which by the Merchant Shipping Act, 1894, section 207, are to be borne by her owner, incurred since her arrival in the port from which he seeks clearance, have been paid.

44. (1) If the master of any vessel in respect

Port-charges payable in one port recoverable at any other port.

of which any such sum as is mentioned in the last foregoing section is payable causes her to leave any port without having paid the sum, the authority appointed to receive port-dues, fees and other charges at the port under this Act may require in writing the authority appointed to receive port-dues, fees and other charges under this Act at any other port in British India to which she may proceed, or in which she may be, to levy the sum.

(2) The authority to whom the requisition is directed shall proceed to levy such sum in the manner prescribed in section 42, and a certificate purporting to be made by the authority appointed to receive port-dues, fees and other charges at the port where such sum as is mentioned in the last foregoing section became payable, stating the amount payable, shall be sufficient *prima facie* proof of such amount in any proceeding under section 42 and also (in case the amount payable is disputed) in any subsequent proceeding under section 59.

45. (1) If the master of a vessel evades the

Penalty for evading payment of any such sum as is mentioned in section 42, he shall be punishable with fine which may extend to five times the amount of the sum,

(2) In any proceeding before a Magistrate on a prosecution under sub-section (1), any such certificate as is mentioned in section 41, sub-section (2), stating that the master has evaded such payment, shall be sufficient *prima facie* proof of the evasion, unless the master shows to the satisfaction of the Magistrate that the departure of the vessel without payment

of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

(3) Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section.

46. A vessel entering any port subject to this Port-due on vessels in Act (other than a port ballast. in Burma) in ballast and not carrying passengers shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding three-fourths of the rate with which she would otherwise be chargeable.

47. When a vessel enters a port subject to Port-due on vessels not this Act, but does not discharging or taking in discharge or take in cargo.

any cargo or passengers herein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding half the rate with which she would otherwise be chargeable.

48. No port-due shall be chargeable in respect of Port-dues not to be chargeable in certain cases.

- (a) any pleasure-yacht, or
- (b) any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage, or
- (c) any vessel which, having entered any port within the territories administered by the Governor of Fort Saint George in Council, leaves it within forty-eight hours without discharging or taking in any passengers or cargo.

49. (1) The Local Government may, by notification in the local official Gazette, order that there shall be paid in respect of every vessel entering any port subject to this Act, within a reasonable distance of which there is a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid, such further port-dues not exceeding one anna per ton as the Local Government thinks fit.

(2) Such port-dues shall be called hospital port-dues, and the Local Government shall, in making any order under sub-section (1), have regard to any contributions made under section 36, sub-section (5), clause (d).

(3) An order imposing or increasing hospital port-dues shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

(4) Whenever the Local Government is satisfied that proper provision has been made by the owners or agents of any class of vessels for giving medical aid to the seamen employed on board such class of vessels, or that such provision is unnecessary in the case of any class of vessels, it may, by notification in the local official Gazette, exempt such class of vessels from any payment under this section.

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(*Chapter V.—Port-dues, Fees and other Charges. Chapter VI.—Hoisting Signals. Chapter VII.—Provisions with respect to Penalties.*)

50. (1) Hospital port-dues shall be applied, Application and account as the Local Government of hospital port-dues. Government may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in the port in which they are levied and for the seamen belonging to the vessels therein, whether such seamen are ashore or afloat.

(2) The Local Government shall publish annually in the *local official Gazette*, as soon after the first day of April as may be, an account, for the past financial year, of the sums received as hospital port-dues at each port where such dues are payable, and of the expenditure charged against those receipts.

(3) Such account shall be published as a supplement to the abstract published under section 36, sub-section (2).

CHAPTER VI.**HOISTING SIGNALS.**

51. (1) The master of every inward or outward Master to hoist number ward bound vessel, on vessel arriving within signal-distance of any signal-station established within the limits of the river Hooghly, or within the limits of any part of a river or channel leading to a port subject to this Act, shall, on the requisition of the pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station.

(2) If the master of a vessel arriving as aforesaid offends against sub-section (1), he shall be punishable for every such offence with fine which may extend to one thousand rupees.

52. (1) Every pilot in charge of a vessel shall Pilot to require master require the number of to hoist number the vessel to be duly signalled as provided by the last foregoing section.

(2) When, on such requisition from the pilot, the master refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the pilot may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.

53. Any pilot in charge of a vessel who disobeys, or abets disobedience to, any of the provisions of this Chapter shall be punishable with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and in addition shall be liable to have his authority to act as a pilot withdrawn.

CHAPTER VII.**PROVISIONS WITH RESPECT TO PENALTIES.**

54. If any person disobeys any rule or order which a Local Government has made in pursuance of this Act and for the punishment of disobedience to which

express provision has not been made elsewhere in this Act, he shall be punishable for every such offence with fine which may extend to one hundred rupees.

55. All offences against this Act shall be Offences how triable, and triable by a Magistrate, penalties how recovered. and any Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel or in the management thereof or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

56. (1) In case of any conviction under this Costs of conviction. Act, the convicting Magistrate may order the offender to pay the costs of the conviction in addition to any fine or expenses to which he may be liable.

(2) Such costs may be assessed by the Magistrate and may be recovered in the same manner as any fine under this Act.

57. (1) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the disputing parties.

(2) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

58. Whenever any fine, expenses or damages is or are levied under this Costs of distress. Act by distress and sale, the costs of the distress and sale may be levied in addition to such fine, expenses or damages, and in the same manner.

59. If any dispute arises concerning the amount leviable by any Magistrate to determine distress or arrest under this Act or the costs payable under the last foregoing section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.

60. (1) Any person offending against the provisions of this Act in any port subject to this jurisdiction over offences beyond local limits of jurisdiction. Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

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(2) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

63. (1) No conviction, order or judgment of any Magistrate under this Act shall be quashed on merits only. Conviction to be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.

(2) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.

CHAPTER VIII.**SUPPLEMENTAL PROVISIONS.**

62. (1) If any vessel belonging to any of His Majesty's subjects, Hoisting unlawful colours or sailing under British colours, hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colours, the use whereof on board such vessel has been prohibited by the Merchant Shipping Act, 1894, or any other Statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such Statute, or by any of His Majesty's regulations in force for the time being, the master of the vessel shall, for every such offence, be punishable with fine which may extend to fifty rupees.

(2) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(3) The conservator of the port, or any officer of His Majesty's Navy or Indian Marine Service, may enter on board any such vessel and seize and take away any flag, jack, pennant or colours so unlawfully hoisted, carried or worn on board the same.

63. Any Magistrate, upon an application being made to him by the Foreign deserters Consul of any Foreign Power to which the Merchant Shipping Act, 1854, or the Merchant Shipping Act, 1894, has

c. 104.
7 & 18 Vict. c. 58.
c. 60.

been, or to which the latter Act shall by a like Order hereafter be, declared to be applicable, or by the representative of such Consul, and upon complaint on oath of the desertion of any seaman, not being a slave, from any vessel of such Foreign Power, may, until a revocation of such Order in Council has been publicly notified, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Consul, to be detained in custody until the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month :

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the detention, and that the detention of the deserter shall not be continued beyond twelve weeks.

64. (1) The provisions of sections 10 and 21 Application of sections 10 and 21 shall be applicable to all ports heretofore or hereafter declared by the Local Government to be ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject.

(2) Any penalties imposed by him, and any expenses incurred by his order, under the said provisions shall be recoverable respectively in the manner provided in sections 55 and 57.

(3) In any of the said ports for the shipment and landing of goods the consent referred to in section 21, sub-section (1), may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the Local Government.

65. The port-duty leviable under this Act in either of the ports of Moulmein and Bassein shall, to the extent of one anna and six pies per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of Burma.

66. Any local authority in which any immovable property in or near a port is vested may, with the previous sanction of the Local Government, appropriate and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

67. (1) All acts, orders or directions by this Exercise of powers of Act authorized to be conservator by his assistants done or given by any conservator may, subject to his control, be done or given by any harbour-master or any deputy or assistant of such conservator or harbour-master.

(2) Any person authorized by this Act to do any act may call to his aid such assistance as may be necessary.

68. Any written notice of a direction given under this Act, left Service of written notices for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.

69. Every declaration, order and rule of a Publication of orders of Local Government made in pursuance of this Local Government. Act shall be published in the local official Gazette, and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates, and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

70. The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column of that schedule.

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(The First Schedule.—*Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.*)

THE FIRST SCHEDULE.

PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

(See sections 1 and 33.)

PART I.—BENGAL.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
Calcutta	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton: provided that in the case of <i>dhanis</i> and country vessels employed in the coasting trade, the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel [Act V of 1903, s. 3] enters the port, except in the case of mail-steamer and coasting-vessels, which shall not be chargeable more than once in sixty days.
	Tug-steamer and river-steamer.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Chittagong	Sea-going vessels of ten tons and upwards, not being ballam-boats.	Not exceeding four and a half annas per ton.	Whenever the vessel enters the port, except in the case of mail-steamer and coasting-vessels, which shall not be chargeable more than once in sixty days.
	Tug-steamer and river-steamer.	Ditto	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Cuttack Ports,—namely, False Point and Pooree.	Ballam-boats	Not exceeding one anna per ton.	Whenever the vessel enters the port.
	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Whenever the vessel enters any one of the ports except in the case of mail-steamer and coasting-vessels, which shall not be chargeable more than once in sixty days.
Balasore Ports—namely, Balasore, Churaman, Laichhunpur, Chana, Subarnarekha, Dhamra (Chandbally), and Sartha.	Ditto	Ditto	Whenever the vessel [Act II of 1894, s. 16] enters any one of the ports, except in the case of mail-steamer and coasting-vessels, which shall not be chargeable more than once in thirty days.

The Indian Ports Bill.

(*The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.*)

PART II.—MADRAS PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
		\$	4
<i>Foreign Vessels.</i>			
Madras	Sea-going vessels of fifteen tons and upwards.	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements or Ceylon calling at Madras, not exceeding four annas a ton. (b) In the case of any other foreign ship or steamer calling at Madras, not exceeding four annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again. The due is payable on each entry into the port.
		<i>Coasting Vessels.</i> (c) In the case of a coasting ship calling at Madras, not exceeding one and a half annas a ton. (d) In the case of a coasting steamer calling at Madras, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again. The due is payable once in thirty days.